

STATE OF CALIFORNIA

GUIDE TO THE STATE MANDATE PROCESS

COMMISSION ON STATE MANDATES



GUIDE TO THE STATE MANDATE PROCESS

FOREWORD

THE MISSION OF THE COMMISSION ON STATE MANDATES is to fairly and impartially hear and determine if local agencies and school districts are entitled to reimbursement for increased costs mandated by the state.

The quasi-judicial mandate determination process requires the participation of cities, counties, school districts, special districts, state agencies, and the Legislature. Even when the Commission approves a test claim, there are still hurdles for local agencies and school districts to overcome before an appropriation and reimbursement can occur. Reimbursements cannot be made until the Legislature makes appropriations that are approved by the Governor. Also, local reimbursement claims are subject to audit by the State Controller's Office and may be reduced.

This guidebook will assist all participants and the public in having a better understanding of the mandate determination process and in joining the statewide dialogue on state-local fiscal relationships. With a better understanding of the roles of all participants, we can work together to develop and implement the most effective, economical, and expeditious services and process to resolve disputes over reimbursable state mandated local programs. To this end, we dedicate this guidebook.

Commission Staff

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INTRODUCTION

LOCAL AGENCIES AND SCHOOL DISTRICTS provide valuable programs and services for the people of California, from educating our children, to protecting our citizens through fire and police protection services.

When the Governor or Legislature mandate a new program or higher level of service upon local agencies and school districts, the state Constitution requires the state to reimburse local agencies and school districts for the cost of these new programs or higher levels of service. State law establishes the Commission on State Mandates to determine if new laws impose reimbursable state mandated programs.

The purpose of this guidebook is to describe the mandate reimbursement process. It is intended to help both first-time and seasoned participants, including state and local governments, navigate the process. The guidebook describes the test claim process that allows local agencies and school districts to seek a determination as to whether a new law is a reimbursable mandate. The incorrect reduction claim process, which allows local agencies and school districts to dispute actions taken by the State Controller's Office on reimbursement claims, is also described. The guidebook also contains a glossary of definitions of words and phrases used in the mandate process.

The guidebook also describes the role of various participants in the mandate reimbursement process, including the role of local agencies, school districts, and their representatives when filing claims, and the role of state agencies when commenting on these claims. The Commission invites public participation in the mandates process. This guidebook will assist the public in defining their role when they choose to participate.

This guidebook is intended as a resource to help the reader understand the role of the Commission in the mandate reimbursement process. However, it is not a source of law or rule concerning Commission procedures, and its descriptions are not binding on the Commission or its staff. While every attempt has been made to ensure the accuracy of this guidebook as of its publication date, it should not be used as a sole reference. Finally, the guidebook should be read simultaneously with the corresponding regulations and statutes that are cited throughout the guidebook. This is a point-in-time document and will be updated on a regular basis as regulations change and statutes are enacted. These updates can be found on the Commission's web site located at www.csm.ca.gov. From this web site location, the guidebook may be viewed, downloaded, and printed in Portable Document Format (PDF), accessible via a PDF file reader.

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WHENEVER THE CALIFORNIA STATE LEGISLATURE passes a law or the Governor or a state agency issues an executive order or regulation that constitutes a new program or higher level of service, California law requires the state to reimburse local agencies and school districts for increased costs. This requirement was first established in 1972 with the passage of Senate Bill (SB) 90. With the approval of Proposition 4 in 1979, California voters further obligated the state to the requirement by adding article XIII B, section 6 to the California Constitution. The amendment requires a subvention of funds to reimburse local agencies and school districts for costs associated with mandates. The process guiding mandate determination and the ensuing subvention of funds has evolved over the years since the enactment of SB 90.

History

The concept of state reimbursement to local agencies and school districts for state-mandated activities originated with the Property Tax Relief Act of 1972 (SB 90, Stats. 1972, ch. 1406). The primary purpose of SB 90 was to limit the ability of local agencies and school districts to levy taxes. To offset these limitations, the Legislature declared its intent to reimburse local agencies and school districts for the costs of new programs or increased levels of service mandated by state government. The Legislature authorized the State Board of Control to hear and decide upon claims requesting reimbursement for costs mandated by the state.

In 1979, voters approved Proposition 4, which added article XIII B to the California Constitution and superseded SB 90. Article XIII B imposed appropriation limits on the tax proceeds of both state and local governments. Section 6 of article XIII B requires that whenever the Legislature or any state agency mandates a new program or higher level of service on local government, the state must provide a subvention of funds to reimburse the associated costs, with certain exceptions.

To implement section 6 of article XIII B, the Legislature enacted Government Code section 17500 et seq. under Statutes 1984, chapter 1459, and created the Commission on State Mandates (Commission) to succeed the State Board of Control for the purpose of making mandate determinations. The Legislature formed the Commission to institute a more effective system for reimbursing local agencies and school districts for the costs of mandates. The Commission is a quasi-judicial body whose primary responsibility is to hear and decide test claims alleging that the Legislature or a state agency imposed a reimbursable mandate upon local agencies and

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school districts. Additionally, the Commission hears and decides claims alleging that the State Controller's Office has incorrectly reduced payments to a local agency or school district.

The Commission is a quasi-judicial body whose primary responsibility is to hear and decide test claims alleging that the Legislature or a state agency imposed a reimbursable state-mandated program upon local agencies and school districts.

In 1993, SB 1033 (Stats. 1993, ch. 72) imposed a new duty upon the Commission to review county applications for a finding of significant financial distress. Within a statutory time frame, the Commission must complete its review of the application, conduct a quasi-judicial hearing, and determine if the applicant county is facing such distress. An affirmative finding by the Commission permits the county to ultimately decide whether to reduce general assistance benefits.

In 1995, additional statutory changes resulting from SB 11 (Stats. 1995, ch. 945) set timelines for the Commission to complete all actions on a test claim. These timelines were revised by Assembly Bill (AB) 1963, an urgency bill effective

September 22, 1998 (Stats. 1998, ch. 681). In 1999, AB 1679 (Stats. 1999, ch. 643) made numerous changes to the mandates process, including requiring the Commission to designate the first filing claimant as the lead claimant when there are multiple claims filed on the same statute or executive order, extending the time for consolidating test claims filed on the same statute or executive order, and providing the Controller with 90 days to respond to incorrect reduction claims. In 2002, AB 3000 (Stats. 2002, ch. 1124) added a statute of limitations on filing test claims.

Process Overview

Through this series of changes, the Commission and the mandate reimbursement process have evolved into their current forms, establishing the process for obtaining possible reimbursement.

Statute or Executive Order

In passing a law or enacting an executive order or regulation, the Legislature, the Governor, or a state agency may impose a new program or higher level of service on local agencies or school districts that results in costs mandated by the state. If the legislation, regulation or executive order does not contain funding for this new mandated program or increased level of service, affected local agencies and school districts may seek reimbursement by filing a test claim with the Commission.

Test Claim

Filing a test claim with the Commission begins the mandate determination process. In a test claim, local agencies and school districts must describe what new program or higher level of service resulted from the new law, regulation or executive order alleged to contain the mandate. The Commission hears and makes a legal determination on each claim.

Parameters and Guidelines

If the Commission approves a test claim, the next step for the test claimant is to develop proposed parameters and guidelines that describe the activities and costs that are eligible for reimbursement. The Commission hears and adopts, or amends or denies the claimant's proposed parameters and guidelines.

Statewide Cost Estimate

Following Commission adoption of parameter and guidelines, Commission staff prepares an estimate of how much the mandate will cost statewide. This proposed statewide cost estimate is then considered by the Commission, who will then adopt or reject it.

Claiming Instructions

In the final step before reimbursement, the State Controller's Office develops a set of claiming instructions, which claimants follow when filing reimbursement claims.

Reimbursement Claims

Once the test claim process is complete, eligible claimants may file reimbursement claims with the State Controller. If funds have been appropriated to the Controller through the local government claims bill or the State Budget Bill, the Controller must pay the claims within 60 days.

Amendment to Parameters and Guidelines

Parameters and guidelines adopted by the Commission may be amended by the Legislature. Parties may also request amendment of parameters and guidelines, which must be approved by the Commission.

Review of Claiming Instructions and Incorrect Reduction Claims

If a claimant contends that the State Controller's Office incorrectly reduced a reimbursement claim, the claimant may file an incorrect reduction claim with the Commission. If the Commission finds that a reimbursement claim has been incorrectly reduced, it submits a letter to the Controller requesting that the Controller reinstate the costs.

The Commission

The Commission fairly and impartially hears and determines if local agencies and school districts are entitled to reimbursement for increased costs mandated by the state.

Originally, the Commission was comprised of five members: the State Controller, State Treasurer, Director of the Department of Finance, Director of the Office of Planning and Research, and a public member with experience in public finance. Effective January 1, 1997, two additional members were added to the Commission, raising membership to its current number of seven. Commission membership now consists of the following:

The Commission provides an objective forum for sound legal determinations as to whether a statute or executive order constitutes a reimbursable state-mandated program.

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- State Controller
- State Treasurer
- Director of the Department of Finance
- Director of the Office of Planning and Research
- A public member with experience in public finance
- Two members from the following three categories, with no more than one member from the same category:
 - A city council member
 - A member of a county or city and county board of supervisors
 - A governing board member of a school district as defined in Government Code section 17519.

The public member and two local officials are appointed by the Governor and are subject to Senate confirmation. Each appointed member serves a four-year term that may be renewed.¹

Commission members elect a chairperson and vice chairperson each year at the January meeting.² The chairperson presides over all meetings of the Commission and has the power to appoint one or more members of the Commission to a subcommittee to investigate and report to the Commission on any matter within the Commission's scope and purpose. The vice chairperson presides over all meetings at which the chairperson is not present. While presiding, the chairperson or vice chairperson carries all the rights and responsibilities of other members, including the right to introduce motions or proposals and to speak and vote on them.³

To carry out its duties, the Commission appoints an executive director who is responsible for the executive and administrative duties of the Commission.⁴ The executive director may employ any officers, examiners, experts, statisticians, accountants, inspectors, clerks, and employees as she or he deems necessary to perform the duties and exercise the powers of the Commission.⁵

The Commission may also appoint an attorney to represent and appear for the Commission in all actions and proceedings. When requested, the attorney, known as the Commission's chief legal counsel, advises the Commission and each member on matters in connection with the powers and duties of the Commission and its members. In addition, the chief legal counsel performs all attorney duties and services that the Commission requires.⁶

Process Participants

All state and local officials and governmental agencies may participate in the mandates process, beginning with the Governor and the Legislature. The courts, statewide associations of local agencies, and school districts also participate in the process.

Governor

The Governor of California signs or vetoes legislation.⁷ The governor also issues an order, plan, requirement, rule or regulation, known as an executive order, which may include a mandate according to article XIII B, section 6 of the California Constitution.⁸ In addition, the Governor appoints three members to the Commission, who are subject to Senate approval.⁹

Legislature

The Legislature originates and passes bills that may contain state-mandated local programs as outlined in article XIII B, section 6 of the California Constitution.¹⁰ The Legislature may include funding in a bill when the Legislature has determined that a statute or executive order mandates a new program or higher level of service requiring reimbursement of local agencies and school districts. If the Legislature includes adequate funding in the bill, no test claims are required.

The Legislature also receives the Commission's semi-annual reports to the Legislature, which include mandates approved and denied by the Commission in the past year.¹¹ The Legislature then introduces a local government claims bill to appropriate funds to pay eligible claims. The local government claims bill may include appropriations for new mandates, deficiencies of prior year mandates and interest thereon.¹²

The Legislature may amend, modify, or supplement the parameters and guidelines for mandates contained in the local government claims bill. If such changes are made, the Legislature must declare its basis for the change in the local government claims bill.¹³

Legislative Counsel

When a bill is introduced in the Legislature, and each time a bill is amended, the Legislative Counsel determines whether the bill mandates a new program or higher level of service. This determination, however, is not binding on the Commission in making its decision on a claim.¹⁴

Legislative Analyst

The Legislative Analyst must review each unfunded statutory or regulatory mandate for which claims have been approved by the Legislature pursuant to a local government claims bill. The resulting recommendations are included in the annual analysis of the budget bill prepared by the Legislative Analyst.¹⁵ The Legislative Analyst also reviews proposals for elimination or modification of a mandate and reports to the Legislature on each proposal, recommending that the body adopt, deny or modify the proposal.¹⁶ AB 3000 (Stats. 2002, ch. 1124) adds a new duty for the Legislative Analyst to identify mandates that significantly exceed the statewide cost estimate adopted by the Commission and to make recommendations on whether the mandates should be repealed, funded, suspended, or modified.

Department of Finance

During the legislative process, the Department of Finance prepares an estimate of the amount of reimbursement required when the Legislative Counsel determines that a bill will mandate a new program or higher level of service. Finance submits estimates to the respective committees of each house of the Legislature that considers taxation and appropriation measures.¹⁷

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The Department of Finance also participates in the test claim process. During the initial test claim stage, the Department may review and provide written response, opposition or recommendations concerning a claim; participate in an informal or pre-hearing conference on a claim, and file written comments on staff analyses.¹⁸ Finally, the Department of Finance may state its position and present evidence on a claim at the hearing addressing the claim.¹⁹ Following approval of a test claim, the Department may review and comment on proposed parameters and guidelines, provide recommendations on statewide cost estimates, and write oppositions or recommendations on incorrect reduction claims.²⁰

In addition, the Department proposes funding for ongoing costs of existing mandates through the annual state budget process, and as noted, the Director of the Department of Finance, or his or her designated representative, is a member of the Commission.

State Controller's Office

The State Controller issues claiming instructions, or revised claiming instructions, for each mandate that requires state reimbursement.²¹ These instructions assist local agencies and school districts in claiming reimbursable costs. The Controller processes all reimbursement claims, thus receiving, reviewing and paying claims as they are received from funds available for that purpose.²² In addition, the Controller may prorate any claim if the amount appropriated for reimbursement is not sufficient to pay all approved claims.²³ The State Controller's Office may also perform desk and field audits on selected claims, which may result in the reduction of a claim payment it determines to be excessive or unreasonable.²⁴

The State Controller's Office also has the opportunity to participate in various aspects of the mandates process. The Controller may review and provide written responses, oppositions or recommendations concerning test claims, including the filing of written comments on draft staff analyses.²⁵ It may also participate in an informal or pre-hearing conference on a claim and present evidence at the claim hearing.²⁶ Following test claim approval, the Controller may review and provide written comments or recommendations on proposed parameters and guidelines, and submit oppositions or recommendations regarding incorrect reduction claims.²⁷ The controller also issues claiming instructions.

And, as noted, the State Controller, or his or her designated representative, is a member of the Commission.

Other State Agencies

Any other state agencies that are responsible, in whole or in part, for implementation, enforcement, or administration of any statutes or executive orders that are the subject of a test claim may participate in the process. State agencies may review and provide written responses, oppositions or recommendations on claims, including the draft staff analyses.²⁸ State agencies may also attend informal or pre-hearing conferences on claims and participate in test claim hearings by stating their positions and presenting evidence on claims.²⁹ Finally, affected state

agencies may review and provide written comments or recommendations on proposed parameters and guidelines and the proposed statewide cost estimates.³⁰

Courts

Following a Commission determination, the parties to a test claim may file a petition for writ of mandate with the court to determine whether the Commission's findings are supported by substantial evidence and whether the Commission's interpretation of the requirements of article XIII B, section 6 of the California Constitution are correct as a matter of law.³¹ In this respect, the courts may determine whether a reimbursable state-mandated program exists or order the Commission to hold another hearing regarding the test claim.

Finally, if the Legislature deletes funding for a mandate from a local government claims bill and a local agency or school district files an action in declaratory relief with the Superior Court of the County of Sacramento, the court may declare a mandate unenforceable and enjoin its enforcement.³²

Statewide Associations and Interested Parties

Statewide associations and private consultants may represent local agencies and school districts in test claim filings or participate at various stages of the process. The associations, private consultants, local agencies and school districts, and interested parties may review and provide written responses, oppositions or recommendations on claims, including draft staff analyses.³³ They may also attend informal or pre-hearing conferences or participate in test claim hearings by stating their positions and presenting evidence on claims.³⁴ Finally, the associations, private consultants, local agencies and school districts, and interested parties may review and provide written comments or recommendations on the successful test claimant's proposed parameters and guidelines and the Commission staff's proposed statewide cost estimates.³⁵

¹ Gov. Code, § 17525.

² As stated in Cal. Code Regs., tit. 2, § 1181.4, subd. (c): "In the calendar year following the statewide election of constitutional officers, the Commission may postpone the election."

³ Cal. Code Regs., tit. 2, § 1181.4.

⁴ Gov. Code, § 17530.

⁵ Gov. Code, § 17531.

⁶ Gov. Code, § 17529.

⁷ Cal. Const., art IV, § 10.

⁸ Gov. Code, § 17516.

⁹ Gov. Code, § 17525.

¹⁰ See Gov. Code, § 17575.

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- ¹¹ Gov. Code, § 17600.
- ¹² Gov. Code, §§ 17612, 17561, 17561.5, and 17561.6.
- ¹³ Gov. Code, § 17612, subd. (b).
- ¹⁴ Gov. Code, § 17575.
- ¹⁵ Gov. Code, § 17570.
- ¹⁶ Gov. Code, § 17562, subd. (e)(2).
- ¹⁷ Gov. Code, § 17576.
- ¹⁸ Cal. Code Regs., tit. 2, §§ 1183.07, subd. (c), 1183.04, subd. (a), 1187.4, subd. (a), and 1183.02.
- ¹⁹ Cal. Code Regs., tit. 2, § 1187.6, subd. (d).
- ²⁰ Cal. Code Regs., tit. 2, §§ 1183.11 and 1183.3, subd. (c).
- ²¹ Gov. Code, § 17562, subd. (e).
- ²² Gov. Code, § 17610.
- ²³ Gov. Code, § 17567.
- ²⁴ Gov. Code, § 17561, subd. (d).
- ²⁵ Cal. Code Regs., tit. 2, §§ 1183.02 and 1183.07, subd. (c).
- ²⁶ Cal. Code Regs., tit. 2, §§ 1183.04, subd. (a), 1187.4, subd. (a), and 1187.6, subd. (d).
- ²⁷ Cal. Code Regs., tit. 2, §§ 1183.11 and 1185.01.
- ²⁸ Cal. Code Regs., tit. 2, §§ 1183.02 and 1183.07, subd. (c).
- ²⁹ Cal. Code Regs., tit. 2, §§ 1183.04, subd. (a), 1187.4, subd. (a), and 1187.6, subd. (d).
- ³⁰ Cal. Code Regs., tit. 2, §§ 1183.11, subd. (b), and 1183.3 (c).
- ³¹ Gov. Code, § 17559, subd. (b).
- ³² Gov. Code, § 17612, subd. (c).
- ³³ Cal. Code Regs., tit. 2, §§ 1183.02 and 1183.07 (c).
- ³⁴ Cal. Code Regs., tit. 2, §§ 1183.04 (a), 1187.4 (a), and 1187.6 (d).
- ³⁵ Cal. Code Regs., tit. 2, §§ 1183.11 (b), and 1183.3 (c).



TEST CLAIMS

TO BE ELIGIBLE FOR REIMBURSEMENT, a local agency or school district must file a “test claim” with the Commission alleging they are entitled to be reimbursed for costs mandated by the state as required by article XIII B, section 6 of the California Constitution.¹ A test claim constitutes the first claim, including claims joined or consolidated with the first claim, filed with the Commission by a local agency or school district. Test claims must allege that a specific statute or executive order imposes a new program or higher level of service in an existing program on a local agency or school district.² In addition, test claims must allege that the new program or higher level of service imposes costs mandated by the state on a local agency or school district.³ Test claims must also allege increased costs of more than \$1,000 per fiscal year to file a claim.⁴

To be eligible for reimbursement, a local agency or school district must file a claim with the Commission alleging they are entitled to be reimbursed for costs mandated by the state.

Process Overview

Filing a test claim is the first step toward possible reimbursement. If the Commission approves a test claim, it directs staff to prepare a proposed statement of decision that the Commission may approve, usually at its next hearing. Once the statement of decision is adopted, the claimant must submit proposed parameters and guidelines, describing the claimable reimbursable activities and costs, which are presented to the Commission for adoption. A statewide cost estimate for approved mandates must be adopted by the Commission to serve as the basis for reimbursement amounts. Finally, the State Controller’s Office issues claiming instructions based on the adopted parameters and guidelines. Claimants follow these instructions when filing a reimbursement claim.

Filing a Test Claim

Filing a test claim initiates the mandates reimbursement process. Test claims must be filed not later than three years following the effective date of the statute or executive order alleged to impose a mandate, or in the case of statutes or executive orders that became effective before January 1, 2002, the test claim must be filed on or before September 30, 2003.⁵

TEST CLAIMS

THE TEST CLAIM FILING MUST ESTABLISH THAT THE STATUTE OR EXECUTIVE ORDER:

- imposes on a local agency or school district a new program or higher level of service in an existing program, and
- contains costs mandated by the State

The test claim filing must establish that the statute or executive order named in the claim:

- Imposes on local agencies or school districts a new program or higher level of service in an existing program, as set forth below:

Court decisions have helped define what constitutes a program under the provisions article XIII B, section 6 of the California Constitution. In *County of Los Angeles v. State of California* (1987) 43 Cal.3d 46, 56 and in *Lucia Mar Unified School Dist. v. Honig* (1988) 44 Cal.3d 830, 835, the required activity or task must be new, constituting a “new

program,” or it must create a “higher level of service” over the previously required level of service. In *County of Los Angeles v. State of California* (1987) 43 Cal.3d 46, the court defined “program” as one that carries out the “governmental function of providing services to the public, or laws which, to implement state policy, impose unique requirements on local governments and do not apply generally to all residents and entities in the state.” As a result, a test claim should contain a discussion on the applicability of the *County of Los Angeles* decision when appropriate. In *City of Sacramento v. State of California* (1990) 50 Cal.3d 51, the California Supreme Court affirmed the definition of “program” as set forth in the *County of Los Angeles* case.

- Contains costs mandated by the state. State-mandated costs are increased costs required to be incurred by a local agency or school district as the result of a statute or executive order implementing a new program or higher level of service for an existing program.⁶ The Commission cannot find that the costs are state-mandated under the exceptions delineated in Government Code sections 17513 and 17556.

Who Can File a Test Claim

Statute and Commission regulations allow various types of test claim filings, including individual, joint and multiple filings by similar or different types of local governmental entities on one statute or executive order.⁷

Individual Claims

Any local agency or school district may individually file a test claim with the Commission, asserting that a statute or executive order imposes costs mandated by the state.

Joint Claims

Two or more claimants may jointly file a test claim if they allege mandated costs resulting from the same statute or executive order, agree on all issues involved in the claim, and designate one contact person. The contact person acts as a resource for information regarding the test claim.⁸

Claims on the Same Statute or Executive Order

The Commission will accept more than one test claim on the same statute or executive order if filed by different types of governmental entities or each test claim presents issues that require separate representation. When more than one test claim is accepted, the executive director may consolidate the test claims. Any party may appeal to the Commission for review of the actions and decisions of the executive director regarding consolidations.⁹

Test Claim Content

All test claim submittals must include one unbound, single-sided original and seven copies of the claim and accompanying documents.¹⁰ Each claim must contain at least the following elements and documents:

Completed Test Claim Form

(For a copy of the form, refer to Appendix E-1.)

Written Narrative

The test claim must include a written narrative describing the alleged mandated activities, including a detailed description of the following items:

- Requirements under prior law or executive order.
- The new program or higher level of service imposed by the alleged mandate.
- Whether there are costs mandated by the state.
- A statement alleging reimbursable costs of \$1,000 or more.
- A declaration, signed under penalty of perjury by the claimant or its authorized representative, that the test claim is true and complete to the best of the declarant's personal knowledge, information or belief.¹¹

Commission staff, Department of Finance, and other affected state agencies thoroughly review the narrative and the statute or executive order alleged to contain a mandate. Due to its importance and the resulting extensive review, claimants are encouraged to carefully develop thorough, concise and factual narratives.

A TEST CLAIM MUST INCLUDE:

- *A written narrative describing the alleged mandated activities.*
- *A declaration, signed under penalty of perjury that the test claim is true and complete to the best of the declarant's personal knowledge or information or belief.*
- *A copy of the chaptered bill or executive order, including identification of specific sections, alleged to contain costs mandated by the state.*
- *Identification of state constitutional provisions, federal statutes or executive orders, and any court decisions that impact the alleged mandate.*
- *A declaration to support any testimonial or documentary evidence submitted to support the test claim. The declaration must be signed under penalty of perjury, based upon the declarant's personal knowledge, information or belief.*

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Chaptered Bill or Executive Order

A copy of the chaptered bill or executive order alleged to contain costs mandated by the state or to impact a state-mandated program must be submitted.

Specific Sections

The specific section(s) of the chaptered bill or executive order alleged to contain a mandate, including the code section(s) within the chaptered bill, if applicable, must be identified. For example: “subdivision (a) of Education Code section 35735.1 (Stats. 1998, ch. 906).”

Constitutional Provisions, Statutes, Executive Orders and Court Decisions

State constitutional provisions, federal statutes or executive orders, and any court decisions that impact the alleged mandate must be identified. If none apply, a statement to that effect should be included.

Declarations to Support the Narrative

Any assertions or representations of fact in the narrative must be supported by testimonial or documentary evidence submitted with the test claim. All documentary evidence must be authenticated by declarations under penalty of perjury signed by parties who are authorized and competent to do so and based upon the declarant’s personal knowledge, information or belief.¹²

If one or more of the required components listed above are missing, illegible, insufficient or lack appropriate declarations, Commission staff will deem the test claim “incomplete.”¹³

What Happens After a Test Claim Package is Received?

Once the Commission receives a test claim filing, staff performs an initial review and notifies the claimant of completeness. If the claim is incomplete, the claimant may correct the claim. The claimant may file a motion to consolidate part or all of the test claim with another test claim, or to sever any part of the test claim. The executive director may also consolidate test claims submitted by two or more claimants if the alleged costs result from the same statute or executive order. Thereafter, agencies may submit written responses to the claim, followed by claimant rebuttal. At any time, the test claimant may request an informal conference on the claim to set timelines for completion of the different phases of the process, such as written responses, rebuttals and staff analyses, that lead up to the claim hearing. Finally, a pre-hearing conference on the claim may be held to identify and resolve outstanding issues on the claim.

Completeness Review of Test Claims

Upon receipt, staff reviews the claim to verify that all of the required contents (listed above) are included and sufficient.

Incomplete Test Claims

If any of the required components are missing, illegible, insufficient, or lack appropriate declarations or signatures, Commission staff determines that the claim is “incomplete.” Within 10 days of receipt of the claim, staff notifies the claimant that the claim is incomplete.¹⁴

To retain the original filing date, the claimant must complete and return the claim within 30 calendar days from the date the incomplete test claim was returned by the Commission. If the claim is completed and returned after this deadline, the original filing date may be disallowed. The claim is then considered “new,” and the filing date becomes the day the Commission receives the completed claim. If the claimant does not resubmit the returned claim, the Commission may accept a new test claim on the same statute or executive order.¹⁵

Complete Test Claims

If Commission staff determines that all of the required contents of a test claim are included in the filing, the claim is deemed “complete.” Staff then notifies the claimant within 10 days that the claim is complete.¹⁶

Once a claim is deemed complete, Commission staff creates a mailing list of the parties and interested parties who have requested inclusion on the list for a specific claim. The mailing list includes names, addresses, phone numbers, and facsimile numbers. The list is provided to the parties and interested parties of the test claim and to any person who requests a copy. Thereafter, any time a party or interested party files any written material concerning a test claim, it shall simultaneously serve all parties on the mailing list of the claim and provide a proof of service. Delivery may be made by first-class mail, by hand or, with prior consent, by facsimile, modem or other electronic means.¹⁷

Any time a party or interested party files any written material concerning a test claim, it must simultaneously serve all parties on the mailing list of the claim and provide a proof of service.

Within 10 days of receipt of the complete test claim, staff sends a copy of the test claim to the Department of Finance, the State Controller’s Office, any other affected state agency, and any known interested parties, who may comment on the claim.¹⁸ Staff notifies agencies of the date their responses¹⁹ will be due and of their right to testify at the Commission hearing.²⁰

Amending a Test Claim

A claimant may amend the test claim at any time prior to a Commission hearing on the claim without affecting the original filing date, as long as the amendment substantially relates to the original test claim.²¹

Withdrawing a Test Claim

A claimant may withdraw a test claim any time before the Commission adopts a decision on the claim. To do so, the claimant must file a written application to the Commission and, at the same time, send a copy to all parties and interested parties on the mailing list provided by the Commission. Another local agency or school district may assume the claim through substitution of parties. If no such action is taken, the Commission will dismiss the claim 60 days after application.²²

TEST CLAIMS

Informal Conference

At any stage in the process, a party may request that the Commission hold an informal conference on a complete test claim. If a conference is to be held, the executive director will schedule the conference with the test claimant, Department of Finance, State Controller, and other affected state agencies.

The purpose of an informal conference is to set dates for responses, rebuttals, the completed staff analyses, and the hearing on the claim. In addition, the test claimant may be given the opportunity to present the claim and respond to questions. All comments, disclosed documents, or new assertions or representations of fact presented at the conference will not become part of the administrative record unless properly admitted into the record through submission of an amendment or written response or public testimony.²³

The test claimant may identify parties who should be invited to the conference. Staff must notify all parties and interested parties by mail or fax at least 10 days prior to the conference. If all parties agree, the conference may be by teleconference.²⁴

Consolidating or Severing Test Claims

Claimant's Motion

Within 30 days of filing a completed test claim, the claimant may file a motion with the Commission to consolidate all or part of a test claim with another claim, or to sever any part of a test claim, to allow the complete, fair or timely consideration of the claim. Motions must be served on all interested parties and include supporting documentation and proof of service.

The executive director has 30 days to consolidate claims submitted by two or more claimants if the claimants allege state-mandated costs resulting from the same statute or executive order and designate one contact person.

The executive director may consolidate part or all of any test claim with another test claim, to allow the complete, fair, or timely consideration of any test claim.

Within 30 days after receipt of a motion to sever, the executive director may sever part of any test claim.²⁵

Consolidation or Severance upon Executive Director's Own Motion

The executive director may consolidate part or all of any test claim with another test claim, or sever test claims to allow the complete, fair, or timely consideration of any test claim.²⁶

At least 10 days prior to the action, the executive director must serve notice of the proposed action on all parties and

interested parties. Test claims submitted by two or more claimants can be consolidated if the claimants allege state-mandated costs resulting from the same statute or order and designate one contact person.²⁷

Any party may appeal the executive director's decision directly to the Commission.²⁸

Pre-hearing Review and Development of Staff Analysis

Parties, interested parties and interested persons have the opportunity to review and submit written comments on test claims and Commission staff analyses. When a party files any written material with the Commission on a test claim, the party must, at the same time, send copies of the written material to the other parties and interested parties on the mailing list provided by the Commission.²⁹

Parties, interested parties and interested persons have the opportunity to review and submit written comments on test claims and Commission staff analyses.

Written Responses

Agencies in receipt of a test claim have 30 days to review and file comments on the claim.

Written responses must include the following items:

- A copy of relevant portions of state constitutional provisions, federal statutes, executive orders, and administrative and court decisions that may impact the alleged mandate. Specific chapters, articles, sections, or page numbers must also be identified. Published court decisions arising from state mandate determinations by the Board of Control and the Commission need not be included.
- Declarations to authenticate new assertions or representations of fact included in any documentary evidence. Declarations must be signed under penalty of perjury by parties who are authorized and competent to do so and based upon the declarant's personal knowledge, information, or belief.³⁰
- Certification at the end of the document, signed by an authorized representative of the state agency, under penalty of perjury, that it is true and complete to the best of the representative's personal knowledge, information or belief. The certification should include the date; contact's title, address, telephone and fax (optional) numbers; and proof of service.
- An unbound, single-sided original, plus two copies of the agency's recommendations, and proof of simultaneous service to the claimant and all interested parties on the mailing list.³¹

Claimant Rebuttal

Claimants and interested parties may file written rebuttals with the Commission within 30 days after receipt of the state agency responses. All parties on the mailing list must be served one copy at the same time. Written rebuttals must contain the following items, if applicable:

- A copy of relevant portions of state constitutional provisions, federal statutes, executive orders, and administrative and court decisions that may impact the alleged mandate. Specific chapters, articles, sections, or page numbers must also be identified.
- Declarations to authenticate new assertions or representations of fact included in any documentary evidence. Declarations must be signed under penalty of perjury by parties who are authorized and competent to do so and based upon the declarant's personal knowledge, information, or belief.³²

The final staff analysis assists the Commission in determining whether the alleged statute or executive order contains a reimbursable state-mandated program.

- Certification at the end of the document, signed by the claimant or its authorized representative under penalty of perjury, that the rebuttal is true and complete to the best of the representative's personal knowledge, information or belief. The certification should include the date; contact's title; address; telephone and fax (optional) numbers; and proof of service.

Rebuttals must include one unbound, single-sided original, two copies and proof of simultaneous service.³³

Staff Analysis

Once responses and rebuttals are received and reviewed, staff is ready to begin analyzing the test claim. Commission staff prepares and circulates a draft staff analysis to the parties, interested parties and any person who requests a copy. The draft staff analysis must be released at least eight weeks before hearing. Staff may present the draft at a pre-hearing conference. Subsequently, any party or interested party may file written comments on the draft staff analysis. Comments must be submitted to the Commission at least five weeks, or by the due date specified, prior to the hearing and simultaneously served on all parties and interested parties. Commission staff revise the draft staff analysis to incorporate and respond to the comments filed. All timely-filed comments are included as exhibits to the final staff analysis presented to the Commission.

The final staff analysis assists the Commission in determining whether the alleged statute or executive order contains a reimbursable state-mandated program. This analysis includes, but is not limited to, a review of written responses, opposition, recommendations, and comments filed by other state agencies; comments from interested parties; and claimant rebuttal.³⁴ The final staff analysis is released at least three weeks prior to hearing.

Pre-Hearing Conference

A pre-hearing conference may be scheduled by the Commission or the executive director. The claimant, Department of Finance, State Controller, other affected state agencies, and other interested parties to a claim will be invited to attend. Pre-hearing conferences may be scheduled for the purpose of identifying issues regarding a claim and determining methods for resolving such issues. However, holding this conference will not limit the issues that may be presented to or considered by the Commission at the hearing in which the claim is heard.³⁵

Nothing said, nor any documents disclosed, during a pre-hearing conference automatically become part of the administrative record of a claim. Information can only be included in the record through the submission of an amendment to a test claim; a written response, opposition, recommendations, comments or rebuttal; or public testimony.

Staff must notify all parties and interested parties of the pre-hearing conference by mail or fax at least 10 days prior to the conference. If all parties agree, the conference may be by teleconference.³⁶

Commission Meeting and Hearing

Notice and Agenda

At least 10 days before each Commission meeting, the executive director issues a notice and agenda for the meeting to interested persons.³⁷ The notice and agenda are also available on the Commission's web site (www.csm.ca.gov).³⁸

Commission Meeting

The Commission is required to hear and decide test claims, adopt parameters and guidelines, and statewide cost estimates, and conduct other business. Although different items may be heard at the same Commission meeting, the hearing on test claims is governed by article 7 of the Commission regulations, while the hearing on parameters and guidelines and statewide cost estimates fall under article 8. As a result, the hearing and evidentiary procedures may be different for each item on the agenda.

The chairperson may cancel, reschedule or modify the starting time or place of any meeting for good cause. All meetings are open to the public and subject to the Bagley-Keene Open Meeting Act.³⁷ However, the Commission may meet in closed executive session to consider certain personnel matters and litigation.⁴⁰ After issuing a notice, the Commission may also convene special meetings to consider "pending litigation,"⁴¹ proposed legislation, issuance of a legal opinion or disciplinary action involving a state officer or employee.⁴² The Commission must keep minutes of its meetings. Upon approval of the minutes by the Commission, the minutes are signed by the chairperson, or his or her designee, and are the original evidence of actions taken at any Commission meeting.⁴³

In all cases not covered by section 17500 et seq. of the Government Code, the Open Meeting Act and Commission regulations, the authority for Commission meetings defaults to the revised Robert's Rules of Order.⁴⁴

Hearing on Test Claims

The Commission typically addresses a number of claims, each in different stages of the process, at each hearing.⁴⁵ Typically, the Commission hears and approves or denies test claims by acting on the final staff analysis. However, the chairperson may assign test claims to a hearing panel of one or more Commission members or, if a claim contains significant factual disputes, to an independent hearing officer or panel.⁴⁶

Although hearings are not to be conducted according to "technical rules relating to evidence and witnesses," they occur in a manner consistent with the Commission's quasi-judicial nature.⁴⁷ All

At the hearing, each party to a test claim has the right to present witnesses, introduce exhibits, and propose questions to the chairperson for opposing witnesses.

hearings are recorded by stenographic reporter, electronic recording device or both. The resulting transcripts are on file with the Commission.⁴⁸

Each hearing follows the agenda prepared and distributed by the executive director.⁴⁹ The chairperson conducts the hearing in the following manner and according to the agenda, which varies for each meeting. Action items begin with Commission staff summarizing the undisputed facts and issues of the claim and the staff recommendation. The claimant is then

given the opportunity to state its position and present evidence. Thereafter, the Department of Finance and any other affected state agencies do the same. After both presentations, the claimant is given an opportunity to reply.⁵⁰

Each party to a test claim has the right to present witnesses, introduce exhibits, and propose questions to the chairperson for opposing witnesses. Evidence may be submitted to support or rebut any issue.⁵¹ All documentary evidence on a claim must be submitted in advance of the hearing on due dates established by Commission staff. At the hearing, however, the Commission will consider requests to submit additional evidence or documentation on an item. Claimants should note that submittal of additional evidence after established due dates (known as “late filings”) may not reach the Commission until the hearing date and may result in a claim being continued to a subsequent hearing.⁵²

All participants should be prepared to answer questions regarding the test claim in their area of expertise. Parties are responsible for arranging to have their own witnesses present and for notifying the Commission before the hearing of who will appear.⁵³ Witnesses and any other individuals offering oral or written testimony do so under oath or affirmation.⁵⁴ Following any presentations, Commission members and the executive director may ask questions of any party or witness.⁵⁵ Parties may also propose questions to the chairperson for opposing witnesses.⁵⁶ Upon completion of presentations and questioning, the Commission may make a motion and vote on the claim.

Claims Before a Hearing Panel or Officer

The chairperson may assign the test claim to a hearing panel or hearing officer. Before doing so, the Commission will hold at least one informational hearing, according to article 8 of the Commission regulations.⁵⁷ Any party may request that a claim be heard by the Commission itself rather than by a hearing panel or officer.⁵⁸

A hearing panel consists of one or more Commission members chosen by the chairperson.⁵⁹ Claims containing significant factual disputes may be assigned to a hearing officer. A hearing officer may be any person designated by the executive director, such as a former member of the Commission, a person with mandate experience, or an administrative law judge.

Hearings before a hearing officer must be held in compliance with Commission regulations. The hearing officer directs the taking of evidence in a hearing in the manner best suited to ascertain facts and safeguard the rights of the parties. The hearing officer will explain the issues and the order of presenting evidence.⁶⁰ Parties may present witnesses and propose questions for opposing witnesses.⁶¹ The Commission may request that the hearing officer prepare a proposed statement of decision for its consideration.⁶²

Decision-making by the Commission

Ultimate decision-making responsibility lies with the Commission itself.⁶³ The proposed decision is served on all parties before the hearing. Any decision proposed by a hearing panel or hearing officer must be adopted, amended or denied by the Commission itself. All actions of the Commission, excluding requests to reconsider,⁶⁴ require an affirmative vote of at least a majority of existing Commission members.⁶⁵

Decisions Adopted Based on Staff Analysis

Once the Commission has reached a decision on a test claim, staff prepares a proposed statement of decision in accordance with the Commission's vote. Commission staff prepares this proposed statement of decision within a reasonable time after the hearing and serves it on all parties.⁶⁶ All decisions are presented in writing, based on the record, and include a statement of reasons for the decision, findings and conclusions. Finally, the proposed statement of decision is presented to the Commission for adoption at a subsequent hearing.⁶⁷ It is served on the parties promptly thereafter.⁶⁸ If the Commission does not adopt the proposed statement of decision, it will direct staff to make appropriate modifications and thereafter adopt the modified statement of decision.⁶⁹

Decisions Adopted Based on Hearing Officer's Proposed Decision

Following a hearing, the hearing officer reviews testimony and evidence submitted into the record. Upon completion of this review, and if requested, the hearing officer issues a proposed decision for Commission consideration. Proposed decisions drafted by a hearing panel or officer must be adopted by the Commission at a hearing. If the Commission does not adopt the proposed decision of a hearing panel or officer, the Commission itself may decide the case on the record or refer the case to the same hearing panel or officer to take additional evidence.⁷⁰

Reconsideration

Within statutory timeframes, the Commission may amend or order a reconsideration of a prior final decision.⁷¹ Any interested party, affected state agency, or Commission member may file a petition with the Commission requesting that it reconsider and change a prior final decision to correct an error of law.⁷² The request must be made within 30 days after the statement of decision is delivered or mailed to the claimant. If the Commission needs additional time to evaluate the petition for reconsideration, it may grant a stay of that expiration for no more than 30 days, solely for the purpose of considering the petition. If the Commission takes no action within the initial 30 days, the request for reconsideration is deemed automatically stayed for another 30-day

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period. If the Commission takes no action on a petition within the entire time allowed (60 days), the petition is automatically denied.⁷³

Before the Commission considers the request for reconsideration, Commission staff prepares a written analysis recommending whether or not the request for reconsideration should be granted. The Commission will consider the request at a hearing. Five affirmative votes are required (a supermajority of the Commission) to grant the request for reconsideration and schedule the matter for a hearing on the merits.⁷⁴

If the Commission grants the request for reconsideration, a subsequent hearing is conducted to determine if the prior final decision is contrary to law and to correct an error of law. A supermajority of five affirmative votes is required to change the decision.⁷⁵

Parameters and Guidelines

Once the Commission adopts a statement of decision on a test claim finding costs mandated by the state, it must determine the amount to be subvended to local government agencies and school districts for reimbursement. This is accomplished through the adoption of parameters and

guidelines, which identify the mandated program, eligible claimants, period of reimbursement, reimbursable activities, and other necessary claiming information.⁷⁶

Once the Commission adopts a statement of decision on a test claim, finding costs mandated by the state, it must determine the amount to be subvended to local agencies and school districts for reimbursement.

Claimant's Proposed Parameters and Guidelines

Successful test claimants are responsible for preparing and submitting proposed parameters and guidelines within 30 days of adoption of the statement of decision. At the successful test claimant's request, the Commission may provide one or more extensions of the 30-day period at any time before it adopts the parameters and guidelines.

If the Commission has not granted an extension, failure to submit proposed parameters and guidelines within the 30-day time period may result in a 20 percent reduction of the test claimant's entitlement for the first 12 months of incurred costs, unless the test claimant can demonstrate to the Commission why an extension is justified.⁷⁷

Claimants must submit an original and seven copies of the proposed parameters and guidelines to the Commission. Proposed parameters and guidelines must contain the following information:⁷⁸

- A summary of the mandate that identifies the statute or executive order containing the mandate, activities found to be required under prior statute or executive order, and activities found to be required under the statute or executive order that contain the mandate or increased level of service.

- A description of the types and level(s) of local governmental entities that are eligible to file for reimbursement.
- A description of the period of reimbursement, specifying the first and subsequent fiscal years that can be reimbursed.
- A description of the specific costs and types of activities that are reimbursable, including one-time and ongoing costs, and a description of the most reasonable methods of complying with the mandate. Costs should be calculated as follows:
- Whenever possible, claimants should use an allocation formula or uniform allowance as the basis for reimbursement based on data that are representative statewide.
- Proposed parameters and guidelines must allow for an offset of any other reimbursement received from federal or state government or other non-local sources, including offsetting savings in the same program as a result of the same statute(s) or executive order(s) found to contain a mandate.
- Supporting data for the claim, including reference to required source documents, record keeping, and allowable overhead costs.
- A signed section indicating that the person who will be submitting reimbursement claim(s) to the Controller is so authorized.

If any of the preceding elements of the parameters and guidelines are missing or inadequately addressed, Commission staff must deem the proposed parameters and guidelines incomplete. Incomplete parameters and guidelines will be returned to the claimant with a description of the subjects to be redrafted or supplemented.⁷⁹

Review of Parameters and Guidelines

Within 10 days of receipt of complete proposed parameters and guidelines, Commission staff sends a copy to the Department of Finance, State Controller, other affected state agencies, and interested parties on the test claim mailing list. Staff also notifies them of their opportunity to review and provide the Commission with written comments or recommendations on the proposed parameters and guidelines within 15 days of service. Within 15 days of receipt of comments from the state agencies and interested parties, claimants and other interested parties may submit written rebuttals to the Commission. A copy of written comments, recommendations or rebuttals must be simultaneously served on all parties listed on the mailing list provided by the Commission.⁸⁰

Following review of all timely submissions, Commission staff prepares proposed parameters and guidelines for presentation at the Commission hearing. In the final proposed parameters and guidelines, staff recommends adoption of the claimant's proposed parameters and guidelines as originally submitted or as amended, modified or supplemented by staff. A draft of the staff recommendation may be submitted to the parties and interested parties at a pre-hearing conference before presentation to the Commission.⁸¹

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Hearing on Parameters and Guidelines

The parameters and guidelines recommended by staff will be presented to members at a Commission meeting. At least 10 days before it is held, the executive director gives notice of the hearing to every person requested to participate in the proceedings and any person the executive director determines to have an interest in the test claim.⁸² At the hearing, claimants, state agencies, and interested parties have an opportunity to comment on the proposed parameters and guidelines.⁸³

Adopting Parameters and Guidelines

When the Commission adopts the parameters and guidelines, it may also adopt an allocation formula or uniform allowance that would provide a specified amount of reimbursement each

year.⁸⁴ The Commission then submits adopted parameters and guidelines to the State Controller's Office, who issues claiming instructions. The State Controller's Office also receives, pays and audits the claims.⁸⁵

The Commission submits adopted parameters and guidelines to the State Controller's Office, who issues claiming instructions, receives, pays and audits the claims.

A local agency, school district or the state may file a request with the Commission to amend, modify or supplement the parameters and guidelines. Upon request, the Commission may do so following public comment, notice, and hearing.⁸⁶

State Controller's Claiming Instructions

After receiving the adopted parameters and guidelines, the Controller issues claiming instructions for each mandate. Claiming instructions assist local agencies and school districts in claiming reimbursable costs. The Controller must issue the instructions no later than 60 days following receipt of the adopted parameters and guidelines.⁸⁷

In preparing claiming instructions, the Controller may request assistance from other state agencies. The instructions will be derived from adopted parameters and guidelines and the statute or executive order creating the mandate.⁸⁸ Issuance of the claiming instructions constitutes a notice of the right of local agencies and school districts to file reimbursement claims, based upon the parameters and guidelines adopted by the Commission.⁸⁹

1 Gov. Code, §§ 17550-17552, Cal. Code Regs., tit. 2, § 1183, subd. (a).

2 Gov. Code, §§ 17521 17214.

3 *Lucia Mar Unified School District v. Honig* (1988) 44 Cal. 3d 830, Gov. Code, § 17514.

4 Gov. Code, § 17564 , subd. (a), Cal. Code Regs., tit. 2, § 1183 , subd. (b). sets forth the only exception to the \$1,000 minimum in alleged costs as follows:

“A test claim filed with the Commission, the amount of which does not exceed the minimum will be returned to the claimant with the exception of claims of a county superintendent of schools or county which may submit a combined claim if the county superintendent of schools or the county is the fiscal agent for multiple districts.”

5 Cal. Code Regs., tit. 2, § 1183.

6 Gov. Code, § 17514.

7 Gov. Code, § 17553, Cal. Code Regs., tit. 2, § 1183.

8 Cal. Code Regs., tit. 2, § 1183.

9 Cal. Code Regs., tit. 2, § 1183.

10 Cal. Code Regs., tit. 2, § 1183, subd. (e).

11 Cal. Code Regs., tit. 2, § 1183, subd. (d)(3).

12 Cal. Code Regs., tit. 2, § 1183, subd. (d)(4).

13 Cal. Code Regs., tit. 2, § 1183, subd. (g).

14 Cal. Code Regs., tit. 2, § 1183, subd. (g).

15 Cal. Code Regs., tit. 2, § 1183, subd. (g).

16 Cal. Code Regs., tit. 2, § 1183, subd. (g).

17 Cal. Code Regs., tit. 2, § 1181.2.

18 Gov. Code, § 17555 , subd. (a), and Cal. Code Regs., tit. 2, § 1183.02, subd. (a).

19 “Response” includes response, opposition or recommendation. Cal. Code Regs., tit. 2, § 1183.2, subd. (b).

20 Cal. Code Regs., tit. 2, § 1183.02 , subd. (b).

21 Gov. Code, § 17557, subd. (c).

22 Cal. Code Regs., tit. 2, § 1183.08.

23 Cal. Code Regs., tit. 2, § 1183.04.

24 Cal. Code Regs., tit. 2, §§ 1183.04 and 1187.4.

25 Cal. Code Regs., tit. 2, § 1183.05, subd. (c).

26 Cal. Code Regs., tit. 2, § 1183.05.

27 Cal. Code Regs., tit. 2, § 1183.06.

28 Cal. Code Regs., tit. 2, § 1181, subd. (c).

29 Cal. Code Regs., tit. 2, § 1181.2, subd. (b).

30 Cal. Code Regs., tit. 2, § 1183.02.

31 Cal. Code Regs., tit. 2, § 1183.02, subd. (c) to (f).

32 Cal. Code Regs., tit. 2, § 1183.02.

33 Cal. Code Regs., tit. 2, § 1183.03.

34 Cal. Code Regs., tit. 2, § 1183.07.

35 Cal. Code Regs., tit. 2, § 1187.4.

36 Cal. Code Regs., tit. 2, §§ 1183.04 and 1187.4.

37 Cal. Code Regs., tit. 2, § 1182.1.

38 Gov. Code, § 11125, subd. (a).

39 Cal. Code Regs., tit. 2, § 1182.4.

40 Gov. Code, § 17526.

41 Gov. Code, § 11126, subd. (e)(2).

42 Gov. Code, § 11125.4.

43 Cal. Code Regs., tit. 2, § 1182.3.

44 Cal. Code Regs., tit. 2, § 1182.4.

45 Gov. Code, §§ 17551 to 17557.

46 Gov. Code, § 17532; Cal. Code Regs., tit. 2, § 1187.2 , subd. (a).

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- 47 Cal. Code Regs., tit. 2, § 1187.5, subd. (a).
- 48 Cal. Code Regs., tit. 2, §§ 1182.3 and 1187.6, subd. (g).
- 49 Cal. Code Regs., tit. 2, § 1182.1, subd. (b).
- 50 Cal. Code Regs., tit. 2, § 1187.6, subd. (e).
- 51 Cal. Code Regs., tit. 2, § 1187.5, subd. (d).
- 52 Cal. Code Regs., tit. 2, §§ 1182.2, subd. (b).
- 53 Cal. Code Regs., tit. 2, § 1187.7.
- 54 Cal. Code Regs., tit. 2, § 1187.5.
- 55 Cal. Code Regs., tit. 2, § 1187.6, subd. (e).
- 56 Cal. Code Regs., tit. 2, § 1187.6, subd. (a).
- 57 Cal. Code Regs., tit. 2, § 1187.2, subd. (a).
- 58 Cal. Code Regs., tit. 2, § 1187.3, subd. (a).
- 59 Cal. Code Regs., tit. 2, § 1187.2, subd. (a).
- 60 Cal. Code Regs., tit. 2, § 1187.6, subd. (a).
- 61 Cal. Code Regs., tit. 2, § 1187.6, subd. (c).
- 62 Cal. Code Regs., tit. 2, § 1188.1, subd. (c).
- 63 Gov. Code, §§ 17531-17559; Cal. Code Regs., tit. 2, § 1188.1.
- 64 Super majority vote required. Cal. Code Regs., tit.2, § 1188.4.
- 65 Gov. Code, § 17532; Cal. Code Regs., tit.2, § 1182.
- 66 Cal. Code Regs., tit. 2, § 1188.1.
- 67 Cal. Code Regs., tit. 2, § 1188.1, subd. (c).
- 68 Cal. Code Regs., tit. 2, § 1188.1, subd. (d).
- 69 Cal. Code Regs., tit. 2, §§ 1188.2.
- 70 Cal. Code Regs., tit. 2, § 1188.1.
- 71 Gov. Code, § 17559, subd. (a).
- 72 Cal. Code Regs., tit. 2, § 1188.4, subd. (b).
- 73 Gov. Code, § 17559 (a); Cal. Code Regs., tit. 2, § 1188.4, subd. (a).
- 74 Cal. Code Regs., tit. 2, § 1188.4, subd. (f).
- 75 Cal. Code Regs., tit. 2, § 1188.4, subd. (g).
- 76 Gov. Code, 17557, subd. (a).
- 77 Gov. Code, 17557, subd. (a); Cal. Code Regs., tit. 2, § 1183.1, subd. (a).
- 78 Cal. Code Regs., tit. 2, § 1183.1, subd. (a).
- 79 Cal. Code Regs., tit. 2, § 1183.1.
- 80 Cal. Code Regs., tit. 2, § 1183.11.
- 81 Cal. Code Regs., tit. 2, § 1183.12, subd. (b).
- 82 Cal. Code Regs., tit. 2, § 1189.3.
- 83 Cal. Code Regs., tit. 2, § 1182.2.
- 84 Gov. Code, § 17557, subd. (b).
- 85 Gov. Code, § 17558, subd. (a).
- 86 Gov. Code, § 17557, subd. (a).
- 87 Gov. Code, § 17558, subd. (b).
- 88 Gov. Code, § 17558, subd. (b).
- 89 Gov. Code, § 17561, subd. (d)(1).



REIMBURSEMENT

THE REIMBURSEMENT PROCESS BEGINS AFTER THE COMMISSION determines that a test claim statute or executive order is a reimbursable state-mandated program. In this phase, the Commission adopts the statewide cost estimate, and then the Governor, Legislature, and Department of Finance determine when and how the reimbursement is executed. The Commission reports the statewide cost estimates to the Legislature to introduce the local government claims bill. The local government claims bill appropriates funds for new mandates. Ongoing mandates are funded through annual appropriations made in the State Budget Act.

Statewide Cost Estimates

Following adoption of parameters and guidelines, Commission staff prepares an estimate of statewide costs.¹ The statewide cost estimate includes the total funds estimated to reimburse all eligible local agencies and school districts for costs incurred as a result of the mandate during the first 12-month period following the operative date of the mandate.² A typical estimate includes costs broken down by each eligible past or current fiscal year as well as one fiscal year of projected costs.

Following adoption of parameters and guidelines, Commission staff prepares an estimate of statewide costs for consideration by the Commission.

Staff prepares and presents the estimate to the Commission for adoption. To develop this estimate, staff reviews actual reimbursement claims data filed with the State Controller. Staff may also review surveys generated by local agencies and school districts to support unit cost rates, published reports, enrollment or average daily attendance figures from school districts, and cost factors known by local agencies or the Department of Finance. Staff then describes the assumptions and methodology used to complete the estimate.³

Before the Commission may adopt or reject a proposed statewide cost estimate, it must hold at least one hearing.⁴ At the hearing, staff discloses the basis for assumptions made and the source of all data used to develop the estimate.⁵ If the Commission adopts the statewide cost estimate, the next step in the reimbursement process is to provide funding for mandated costs, either through the local government claims bill or the State Mandates Claims Fund.

Reports to the Legislature

Approved mandates are typically funded through an annual local government claims bill that is introduced by the Legislature. The claims bill is introduced after the Commission reports mandates to the Legislature. Therefore, at least twice each calendar year, the Commission

Approved mandates are typically funded through an annual local government claims bill that is introduced by the Legislature.

informs the Legislature of the number of approved mandates since the last report, the estimated statewide cost of each mandate, and the reasons for recommending reimbursement.⁶ On January 15 of each year, the Commission is also required to report the number of claims it denied during the preceding calendar year and the basis for each denial.⁷ Upon receipt of the Commission's Report to the Legislature on approved mandates, a local government claims bill is introduced in the Legislature.⁸

Annual Local Government Claims Bill

The local government claims bill typically is introduced each year, at the beginning of the legislative session, and includes the mandates reported by the Commission. The Assembly and Senate budget committees alternate responsibility for introducing the claims bill. This process coincides with the legislative session and the budget adoption process. The Governor issues the proposed State Budget each January, and the Department of Finance revises the proposed Budget each May to incorporate changes in incoming state revenues, expenditures, and reserve estimates. This process is known as the "May Revise." The local government claims bill may include statewide cost estimates adopted by the Commission prior to May.

At the time of its introduction, the claims bill must provide appropriations sufficient to pay the estimated costs of the new mandates. The Legislature may amend, modify or supplement the parameters and guidelines if it makes a declaration in the local government claims bill specifying the basis for such action.⁹ If the Legislature deletes funding for a mandate from the claims bill, the local agency or school district may file an action in declaratory relief in the Superior Court of the County of Sacramento to declare the mandate unenforceable and enjoin its enforcement.¹⁰

Deficiencies

Reports to the Legislature may also include information on deficiencies. A deficiency occurs when appropriated funds from the prior fiscal years are not sufficient to pay all claims filed with the State Controller. When there is a deficiency for a mandate, the Controller is required to prorate reimbursement. The State Controller must immediately report deficiencies to the Department of Finance, the chairperson of the Joint Legislative Budget Committee, and the chairperson of the respective committees in each house of the Legislature that considers appropriations to ensure appropriation of these funds in the State Budget Act.¹¹

If the needed funds cannot be appropriated in the Budget Act, the State Controller must transmit deficiency information to the Commission for inclusion in its Report to the Legislature, the local government claims bill, or other appropriation bills. If a local government claims bill has already been introduced, the Controller then reports the deficiency information directly to the chairperson of the respective budget committee in each house for inclusion in the claims bill.¹²

While this legislative process is the general method for funding mandate claims, there are two other options available to local government agencies and school districts to shorten and ease the funding process: the State Mandates Claims Fund and the State Mandates Apportionment System.

State Mandates Claims Fund

The Legislature established the State Mandates Claims Fund in 1984 to finance low-cost mandates under certain conditions.¹³ The enabling statutes appropriated \$5 million for the Fund to provide eligible claimants with funding for relatively minor mandates without the need for legislation. To be eligible for funding from the State Mandates Claims Fund, the Commission must estimate the cost of the mandate to be less than \$1 million in the first full year of operation, and the legislation imposing the new mandate must authorize monies from the fund.

In addition, Commission regulations require statewide cost estimate recommendations to include the reasons that the estimate is more or less than \$1 million.¹⁴ The Commission must certify to the Controller that a claim can be paid from the fund when the estimated statewide cost does not exceed \$1 million.¹⁵

The State Mandates Claim Fund has not been used in recent years. Since 1994, the Legislature has generally funded new mandates through the annual claims bill.

State Mandates Apportionment System

The State Mandates Apportionment System streamlines the process of reimbursing local agencies and school districts for approved state-mandated costs by allowing certain ongoing mandates to be funded automatically through the State Budget process. For mandates with a history of stable costs, the State Mandates Apportionment System eliminates the requirement imposed on local agencies and school districts to file annual reimbursement claims. The State Controller does not audit mandates funded through this system. The Commission is required to determine which mandates are eligible for inclusion in and removal from the State Mandates Apportionment System. State Mandates Apportionment System procedures also call for the State Controller to calculate and adjust allocations and for the Commission to review apportionment levels.¹⁶

The State Mandates Apportionment System streamlines the process of reimbursing local agencies and school districts for approved state-mandated costs, by allowing reimbursement for certain programs to be automatically funded through the State Budget process.

REIMBURSEMENT

Reviewing Mandated-Cost Programs for Eligibility

The Department of Finance, State Controller's Office, local agencies, or school districts may request that the Commission review any mandate for which appropriations have been made by the state to local agencies and school districts for any three consecutive years. Following review, the Commission will determine if those mandates are eligible for inclusion in the State Mandates Apportionment System.¹⁷ The requesting agency is required to file a "Request for Inclusion" with the Commission, which must contain at least the following:

- The chapter number of the law that established the mandate.
- A detailed narrative describing the mandate, with an explanation of why it should be included in the State Mandates Apportionment System.
- Any other pertinent information to substantiate the request or that could influence the Commission's decision on the matter.¹⁸

Once the Commission receives the filing, staff reviews the request to determine if it is complete. Requests are considered incomplete if any of the preceding elements or documents are illegible or missing, and incomplete requests are returned to the requesters. The Commission then determines at a public hearing whether or not the mandate will be included in the State Mandates Apportionment System.¹⁹ During this process, the Commission is required to consider recommendations from the State Controller regarding the request.²⁰

When considering the request, the Commission determines if the mandate has a history of stable costs for most claimants, if it has been recently modified, and if the costs of the mandate can be accurately reflected. If the Commission determines that the mandate should be included in the State Mandates Apportionment System, it directs the State Controller to include it in the system.²¹

Calculating Actual Allocations

Once a mandate is included in the State Mandates Apportionment System, the State Controller determines the amount of reimbursement that will be disbursed to local agencies and school districts that submitted reimbursement claims for the mandate. The amount of reimbursement is computed by taking three consecutive years of actual reimbursement claims for the subject mandate, adjusting each year's amount by the Implicit Price Deflator for Costs of Goods and Services to Governmental Agencies, and averaging the three amounts. The result is called the "base year entitlement." Reimbursements are then allocated to local agencies and school districts once the funds are included in the State Budget.²²

Adjusting Allocations

Allocations for reimbursement of mandates included in the State Mandates Apportionment System must be adjusted annually according to changes in the Implicit Price Deflator and the workload of the affected local agency or school district. For purposes of this calculation, "workload" is defined as follows:

- For cities and counties: changes in population within their boundaries.
- For special districts: changes in the population of the county in which the largest percentage of the district's population is located.
- For school districts and county offices of education: changes in average daily attendance.
- For community colleges: changes in the number of full-time equivalent students.

The Controller will subvene the derived amount, following adjustment for prior discrepancies between the actual and estimated change.²³

Reviewing Apportionments or Base Year Entitlements

If local agencies or school districts believe that the total apportionment is inadequate to cover actual costs of the mandates, they are entitled to request that the Commission review the reimbursement they receive or the base year entitlements of any mandate included in the system. To do so, the local agency or school district must file a "Request for Review" with the Commission, which must contain the following:

- Identification of the mandate alleged to require review.
- A narrative describing the need to modify the apportionment or base year entitlement.
- A statement declaring that other mandates included in the subject agency's apportionment are not over-funded in an amount sufficient to offset the alleged underfunded mandate.
- A determination that the local agency or school district has records to document that their costs exceed the apportionment by 20 percent or \$1,000, whichever is less.²⁴

The Commission must hold a minimum of one public hearing on the request. If the Commission determines that a local agency or school district's apportionment is insufficient to reimburse for all mandates upon which the apportionment is based by 20 percent or \$1,000, then it must direct the State Controller's Office to adjust the apportionment to reflect this decision.²⁵

However, if it is determined that the apportionment adequately reflects the costs incurred by the local agency or school district for all mandates upon which that apportionment is based, the Commission may, at its discretion, direct the State Controller to withhold the costs of the Commission's review from the next apportionment disbursed to the local agency or school district.²⁶

Removing Mandates from the State Mandates Apportionment System

There are other instances when a local agency's costs may eventually exceed the amount of funding it receives through the State Mandates Apportionment System. For any mandate included in the system that has been modified or amended by the Legislature or by executive order, any local agency, school district or state agency may request that the Commission review that mandate for removal from the State Mandates Apportionment System.²⁷ The local agency or school district must file a "Request for Removal" with the Commission, which must contain the following:

REIMBURSEMENT

- * The chapter number or executive order of the law that established the mandate.
- * A detailed narrative describing the mandate, with an explanation of why it should no longer be included in the State Mandates Apportionment System.
- * Any other information that will substantiate the request or that could influence the Commission's decision.

Requests will be considered incomplete if the preceding elements or documents are illegible or missing, and incomplete requests will be returned to the requester.²⁸

At the hearing, the Commission must adopt a finding that the mandate shall or shall not be removed from the State Mandates Apportionment System. The Commission bases its finding on a determination that the mandate was significantly modified, causing the apportionment to no longer accurately reflect actual costs incurred. Upon adoption of a finding that a mandate should be removed from the system, the Commission must direct the Controller to remove it.²⁹

1 Cal. Code Regs., tit. 2, § 1184.1, subd. (a).

2 Gov. Code, § 17610, subd. (b).

3 Cal. Code Regs., tit. 2, § 1184.1, subd. (b).

4 Cal. Code Regs., tit. 2, §§ 1183.3, subd. (f) and 1184.1, subd. (c).

5 Cal. Code Regs., tit. 2, § 1183.3, subd. (e).

6 Gov. Code, § 17600.

7 Gov. Code, § 17601.

8 Gov. Code, § 17612, subd. (a).

9 Gov. Code, § 17612, subd. (b).

10 Gov. Code, § 17612, subd. (c).

11 Gov. Code, § 17567.

12 Gov. Code, § 17567.

13 Gov. Code, §§ 17610 and 17614.

14 Cal. Code Regs., tit. 2, § 1184.1, subd. (b).

15 Cal. Code Regs., tit. 2, § 1184.2.

16 Gov. Code, §§ 17615 – 17616.

17 Gov. Code, § 17615.1.

18 Cal. Code Regs., tit. 2, § 1184.6.

19 Gov. Code, § 17615.1; Cal. Code Regs., tit. 2, § 1184.7.

20 Gov. Code, § 17615.4, subd. (c); Cal. Code Regs., tit. 2, § 1184.6.

21 Cal. Code Regs., tit. 2, § 1184.7.

22 Gov. Code, §§ 17615.2 and 17615.3.

23 Gov. Code, § 17615.3.

24 Gov. Code, § 17615.8; Cal. Code Regs., tit. 2, § 1184.10.

25 Cal. Code Regs., tit. 2, § 1184.11, subds, (a) and (b).

26 Gov. Code, § 17615.8, subd. (d).

27 Gov. Code, § 17615.7;

28 Cal. Code Regs., tit. 2, § 1184.8.

29 Cal. Code Regs., tit. 2, § 1184.9.



AMENDMENTS TO PARAMETERS AND GUIDELINES

THE LEGISLATURE MAY AMEND, MODIFY, OR SUPPLEMENT the parameters and guidelines for mandates contained in the local government claims bill. If the Legislature does so, it must declare in the local government claims bill the basis for the amendment, modification or supplement.¹

Parameters and guidelines may be amended at any time following their adoption, at the request of a local agency, school district, or the state.² Upon request, the Commission may, after public notice and hearing, amend, modify or supplement the parameters and guidelines.

Parameters and guidelines may be amended at any time following their adoption, at the request of a local agency, school district, or the state.

Content of Requests to Amend Parameters and Guidelines

Local agencies, school districts, and the state may request that the Commission amend, modify or supplement parameters and guidelines.³ The requests must include:

- An outline of specific sections within the existing parameters and guidelines that are proposed to be changed.
- A narrative detailing why the amendment is required.⁴

The requesting agency must submit seven copies of proposed parameters and guidelines amendments to the Commission.⁵

Filing and Reimbursement Schedule

A parameters and guidelines amendment is subject to the following schedule, based on the initial claiming deadline specified in the claiming instructions:

- An amendment filed *before* the initial claiming deadline for reimbursement claims applies to the same years eligible for reimbursement as defined in the original parameters and guidelines.⁶
- An amendment filed *after* the initial claiming deadline for reimbursement claims must be submitted on or before January 15 following a fiscal year to establish eligibility for reimbursement for that fiscal year.⁷

AMENDMENTS TO PARAMETERS AND GUIDELINES

Pre-Hearing Review and Development of Staff Analysis Filing Review, Comment, and Rebuttal

Within 10 days of receipt of a complete request to amend parameters and guidelines, Commission staff sends a copy of the request to the Department of Finance, the State Controller, other affected state agencies, and interested parties on the mailing list.⁸ Recipients may file written comments or recommendations within 30 days of receiving the request.⁹ Responding state agencies and interested parties must submit an original and two copies of their responses to the Commission and a copy to all parties on the mailing list.¹⁰

Within 30 days of service of comments and recommendations filed by state agencies and interested parties, the requestor and any interested parties may submit written rebuttals (original two copies) to the Commission. Requestors must simultaneously serve copies on all parties on the mailing list.¹¹

The Commission staff may conduct a pre-hearing conference to identify issues with the proposed parameters and guidelines amendments and determine methods of resolving them.

Consideration of Request to Amend Parameters and Guidelines by Commission

The Commission must hold at least one informational hearing on requests to amend parameters and guidelines. The Commission hears testimony and then votes to approve or deny the proposed amendments. A request to amend parameters and guidelines may be withdrawn by written application any time before a decision is adopted, or by oral application at the time of the hearing.¹²

If the Commission adopts the amendments to the parameters and guidelines, a copy is sent to the State Controller's Office, which must revise its claiming instructions within 60 days of receiving the amended parameters and guidelines.

¹ Gov. Code, § 17612 (b).

² Gov. Code, § 17557 (a).

³ Gov. Code, § 17557 (a).

⁴ Cal. Code Regs., tit. 2, § 1183.2 subd. (a).

⁵ Cal. Code Regs., tit. 2, § 1183.2 subd. (d).

⁶ Cal. Code Regs., tit. 2, § 1183.2 subd. (b).

⁷ Cal. Code Regs., tit. 2, § 1183.2 subd. (c).

⁸ Cal. Code Regs., tit. 2, § 1183.2 subd. (e).

⁹ Cal. Code Regs., tit. 2, § 1182.2 subd. (f).

¹⁰ Cal. Code Regs., tit. 2, § 1182.2 subd. (g).

¹¹ Cal. Code Regs., tit. 2, § 1183.2 subd. (h).

¹² Cal. Code Regs., tit. 2, § 1183.2 subd. (j).



REVIEW OF CLAIMING INSTRUCTIONS

THE CLAIMING INSTRUCTIONS ISSUED BY THE STATE CONTROLLER'S OFFICE, whether in original or modified form, instruct local agencies and school districts on how to file reimbursement claims for costs mandated by the state. Once claiming instructions are completed and issued, eligible claimants may file reimbursement claims with the State Controller.

Upon request by a local agency or school district, the Commission must review claiming instructions issued by the State Controller.¹

Content of Request to Review Claiming Instructions

Any local agency or school district filing a request to review claiming instructions must submit one original and three copies to the Commission.² A request to review must include:

- A copy of the disputed claiming instructions.
- Correspondence or other documentation from the Controller verifying that the claimant has sought resolution of the dispute through the Controller, if available.
- A narrative detailing the suggested change(s) and the reasons why the local agency or school district finds the claiming instructions need to be modified.
- The name, address, facsimile and telephone numbers of the contact person.

Upon a request by a local agency or school district, the Commission must review claiming instructions issued by the State Controller.

If any of the required components are missing or illegible, Commission staff will return the incomplete request to the local agency or school district for completion.³

Review, Response and Staff Analysis

Commission staff sends a copy of the request to the mailing list within 10 days of receipt of the complete request.⁴ Staff also notifies agencies of the date their responses will be due.⁵ The mailing list includes the names, addresses, phone numbers, and facsimile numbers of the parties and interested parties who have an interest in the request or who requested to be on the list. The list is provided to the parties and interested parties of the test claim and to any person who requests a copy. Thereafter, any time a party or interested party files any written material concerning the request, it shall simultaneously serve all parties on the mailing list provided by the Commission and provide a proof of service. Delivery may be made by first-class mail, by hand or, with prior consent, by facsimile, modem or other electronic means.⁶

REVIEW OF CLAIMING INSTRUCTIONS

Written Responses

All state agencies and interested parties in receipt of a request for written responses have 30 days from the day of service to review and comment on the request. Responders must send an unbound, single-sided original, two copies and proof of service of the written responses to the Commission. The claimant, affected state agencies, and other interested parties on the mailing list must simultaneously be served a copy.⁷

Claimant Rebuttal

Claimants and interested parties may file written rebuttals with the Commission within 30 days of service. Those parties submitting written rebuttals must send one original, two copies and proof of service to the Commission.⁸ All parties on the mailing list must also be simultaneously served a copy.

Staff Analysis

Commission staff reviews the responses it receives, and may prepare an analysis on the request to review claiming instructions. This analysis assists Commission members in determining whether the claiming instructions should be modified.

Modifying Claiming Instructions

The Commission must hold at least one informational hearing, under article 8 of its regulations, on the request to review claiming instructions. If the Commission determines that the claiming instructions do not conform to the parameters and guidelines, the Commission must direct the Controller to modify the claiming instructions. The Controller must modify the claiming instructions to conform to the parameters and guidelines as directed by the Commission.⁹

The State Controller's Office prepares and issues revised claiming instructions within 60 days of receiving a statement of decision directing revision of claiming instructions. The State Controller may request the assistance of other state agencies when preparing the revised claiming instructions.¹⁰

The application of modified claiming instructions depends on when the request to review was submitted. A request to review filed before the deadline for initial claims, as specified in the claiming instructions, applies to all years eligible for reimbursement as defined in the original parameters and guidelines. A request to review filed after the initial claiming deadline must be submitted on or before January 15 following a fiscal year to establish eligibility for reimbursement for that fiscal year.¹¹

A local agency or school district filing a request to review may withdraw the request by written application any time before the Commission adopts a decision, or by oral application at the hearing.¹²

Submitting Claims for Reimbursement

Once the claiming instructions are modified, each local agency or school district to which the mandate applies must submit a claim for reimbursement. Such claims must be submitted within 120 days after the Commission reviews the claiming instructions.¹³ If a local agency or school district does not submit a claim within the 120-day period, or submits a claim pursuant to revised claiming instructions, it may submit the claim as specified in Government Code section 17560.¹⁴

1 Gov. Code, § 17571.

2 Cal. Code Regs., tit. 2, § 1186, subd. (c).

3 Cal. Code Regs., tit. 2, § 1186, subd. (d).

4 Cal. Code Regs., tit. 2, § 1186, subd. (e).

5 Cal. Code Regs., tit. 2, § 1183.2, subd. (b).

“Response” includes response, opposition or recommendation.

6 Cal. Code Regs., tit. 2, § 1181.2.

7 Cal. Code Regs., tit. 2, § 1186, subd. (f).

8 Cal. Code Regs., tit. 2, § 1186, subd. (g).

9 Gov. Code, § 17571.

10 Gov. Code, § 17558, subd. (c).

11 Cal. Code Regs., tit. 2, § 1186, subd. (j).

12 Cal. Code Regs., tit. 2, § 1186, subd. (k).

13 Gov. Code, § 17561, subd. (d)(1)(B).

14 Gov. Code, § 17561, subd. (d)(1)(C).



INCORRECT REDUCTION CLAIMS

THE STATE CONTROLLER'S OFFICE may reduce the amount of any reimbursement claim that it determines to be excessive or unreasonable.¹ If the Controller takes such an action and the claimant disputes it, the claimant may file an incorrect reduction claim with the Commission. An incorrect reduction claim alleges that the Controller incorrectly reduced the amount paid on a reimbursement claim for a state-mandated program. The Commission hears and decides whether the State Controller's reduction was correct.²

Process Overview

Filing an incorrect reduction claim is the first step towards determining if the State Controller incorrectly reduced a reimbursement claim. After the Commission determines an incorrect reduction claim to be complete, a copy of the claim is sent to the State Controller's Office, which has no more than 90 days to file comments.³ The claimant may file a rebuttal to the Controller's comments within 30 days after receipt of the Controller's comments. Once responses and rebuttals are received, staff completes an analysis to assist the Commission in determining whether to approve or deny the incorrect reduction claim. If, after a hearing, the Commission determines that the reimbursement claim was incorrectly reduced, it outlines its reasons and sends a statement of decision to the Controller. If the Commission determines that the reimbursement claim was not incorrectly reduced, claimants may file action in court to overturn the Commission's determination.

Local agencies and school districts may file an incorrect reduction claim with the Commission to obtain a determination on whether the State Controller incorrectly reduced a reimbursement claim.

Who Can File an Incorrect Reduction Claim

Commission regulations allow local agencies and school districts to file an incorrect reduction claim with the Commission to obtain a determination on whether the State Controller incorrectly reduced a reimbursement claim. A local agency or school district filing an incorrect reduction claim must do so no later than three years after receiving the State Controller's Office remittance advice that provided notice of reduction.⁴ Incorrect reduction claims must pertain to alleged incorrect reductions in a reimbursement claim(s) filed by one local entity. An incorrect reduction claim may apply to more than one fiscal year.⁵

INCORRECT REDUCTION CLAIM

Incorrect Reduction Claim Content

Each incorrect reduction claim must be filed on a form provided by the Commission and must include one original and two copies. An incorrect reduction claim must contain at least the following elements and documents:

- A copy of the State Controller's claiming instructions, (if available) in effect during the fiscal year(s) of the reimbursement claim(s).
- A detailed written narrative that describes the alleged incorrect reduction(s). The narrative should include, if known, a comprehensive description of the reduced or disallowed area(s) of cost(s).
- If the narrative describing the alleged incorrect reduction(s) involves more than discussion of statutes, regulations or legal argument, and relies on assertions or representations of fact, such assertions or representations must be supported by testimonial or documentary evidence submitted with the claim. All documentary evidence must be authenticated by declarations under penalty of perjury signed by individuals who are authorized and competent to do so. Declarations must also be based on the declarant's personal knowledge, information or belief.
- If available, a copy of the final state audit report or letter or the remittance advice or other notice of adjustment from the Controller, which explains the reason(s) for the reduction or disallowance.
- A copy of the letter sent by the claimant or the claimant's representative to the State Controller explaining why the disputed reduction should be restored.
- A copy of the subject reimbursement claims the claimant submitted to the Controller.⁶

The Commission must determine whether an incorrect reduction claim is complete within 10 days after it is filed.⁷ If any of the preceding elements or documents are missing, illegible, insufficient, or without appropriate declarations, Commission staff deems the incorrect reduction claim "incomplete" and returns it to the claimant for completion.⁸ The local agency or school district has 30 days to complete the claim.⁹ If a complete incorrect reduction claim is not received by the commission with thirty (30) days from the date the incomplete claim was returned to the claimant, the commission shall deem the filing to be withdrawn.¹⁰

What Happens After an Incorrect Reduction Claim is Received?

Agency Response

Within ten days of receiving a complete incorrect reduction claim, Commission staff forwards a copy of the claim to the State Controller's Office. The Controller has no more than 90 days to file written oppositions or recommendations on the incorrect reduction claim.¹¹ Any written opposition or recommendation filed with the Commission must simultaneously be served on the claimant and their designated representatives. All filings must include proof of service.¹²

If written oppositions or recommendations involve more than a discussion of statutes, regulations or legal argument, and use assertions or representations of fact, such assertions or representations must be supported by documentary evidence submitted with the response. All documentary evidence must be authenticated by declarations under penalty of perjury signed by individuals authorized and competent to do so. In addition, declarations must be based on the declarant's personal knowledge, information or belief.¹³

Claimant Rebuttal

Upon receipt of the Controller's response, the claimant may file a rebuttal and any supporting documentation with the Commission. Rebuttals are due 30 days after receipt of the Controller's comments. Assertions or representations of fact must be supported by documentary evidence submitted with the rebuttal. Documentary evidence must be authenticated by declarations under penalty of perjury and signed by individuals who are authorized and competent to do so, based on the declarant's personal knowledge, information or belief.¹⁴

Development of Staff Analysis

Staff analyzes an incorrect reduction claim after responses and rebuttals are received and reviewed. At least eight weeks before the scheduled hearing on the claim, staff completes an analysis and circulates it to the parties. It includes, but is not limited to, a review of written responses, opposition, recommendations, comments, and rebuttals filed by the State Controller and the claimant. This analysis aids Commission members in deciding the claim. The Commission may combine analyses of incorrect reduction claims from different local entities if staff determines the claims contain similar issues.

Any comments on the analysis and supporting documents must be filed and received in the Commission's office at least five weeks, or by the due date specified, before the scheduled hearing. Staff includes timely-filed comments in the record of the incorrect reduction claim that is presented to the Commission.

Commission Meeting and Hearing

Notice and Agenda

At least 10 days before the Commission meeting, the executive director issues a notice and agenda for the meeting to all parties, interested parties and interested persons.¹⁵ The notice and agenda are also available on the Commission's web site (www.csm.ca.gov).¹⁶

Commission Meeting

The Commission is required to meet to carry out Commission business. Although different items may be heard at the same Commission meeting, the hearing on incorrect reduction claims is governed by article 7 of the Commission regulations. The hearing and evidentiary procedures may be different for each item on the meeting agenda.

INCORRECT REDUCTION CLAIM

The chairperson may cancel, reschedule or modify the starting time or place of any meeting for good cause. All meetings are open to the public and subject to the Bagley-Keene Open Meeting Act.¹⁷ However, the Commission may meet in closed executive session to consider certain personnel matters and litigation.¹⁸

In all cases not covered by section 17500 et seq. of the Government Code, the Open Meeting Act and Commission regulations, the authority for Commission meetings defaults to the revised Robert's Rules of Order.¹⁹

Hearing on Incorrect Reduction Claims

At the hearing, the Commission may adopt, continue or deny a claim. Each incorrect reduction claim hearing takes place during the Commission's regularly scheduled meeting, which is conducted according to article 7 of Commission regulations. Prior to an incorrect reduction claim hearing, the claimant may submit a statement to the Commission indicating its preference for the claim to be heard by the Commission itself, a hearing panel or a hearing officer.²⁰

If heard by the Commission, the incorrect reduction claim hearing begins with staff summarizing the undisputed facts and issues of the claim. The claimant then states its position and presents evidence. Thereafter, the State Controller's Office can do the same.

The claimant is given an opportunity to reply. At any time during the hearing, Commission members and the executive director may ask questions of any party or witness.²¹ When the presentations and questioning are complete, the Commission makes a motion and votes on the claim. If the Commission determines the Controller incorrectly reduced a reimbursement claim, it outlines the reasons for the decision and sends this statement of decision to the State Controller. The statement of decision communicates the Commission's action on the incorrect reduction claim, and requests that the Controller reinstate the costs that were incorrectly reduced.²³ If the Commission determines that the reimbursement claim was not incorrectly reduced, claimants may file action in court to overturn the Commission's determination.

If the Commission determines the Controller incorrectly reduced a reimbursement claim, it outlines the reasons for the decision and sends this statement of decision to the State Controller.

Withdrawal of Incorrect Reduction Claims

The claimant may withdraw an incorrect reduction claim by written application any time before the Commission adopts a decision, or by oral application at the hearing on the claim. If such action is taken, the Commission may issue a decision dismissing the claim.²²

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- 1 Gov. Code, § 17561, subd. (d)(2).
 - 2 Gov. Code, §17551, subd. (d).
 - 3 Gov. Code, § 17553, subd. (d).
 - 4 Cal. Code Regs., tit. 2, § 1185, subd. (b).
 - 5 Cal. Code Regs., tit. 2, § 1185, subd. (c).
 - 6 Cal. Code Regs., tit. 2, § 1185, subd. (e).
 - 7 Gov. Code, § 17553, subd. (d); Cal. Code Regs., tit. 2, § 1185, subd. (f).
 - 8 Cal. Code Regs., tit. 2, § 1185, subd. (f).
 - 9 Gov. Code, § 17553, subd. (d).
 - 10 Cal. Code Regs., tit. 2, § 1185, subd. (f).
 - 11 Gov. Code, § 17553, subd. (d).
 - 12 Cal. Code Regs., tit. 2, § 1185.01, subd. (b).
 - 13 Cal. Code Regs., tit. 2, § 1185.01, subd. (b).
 - 14 Cal. Code Regs., tit. 2, § 1185.01, subd. (c).
 - 15 Cal. Code Regs., tit. 2, § 1182.1, subd. (b).
 - 16 Gov. Code, § 11125.
 - 17 Gov. Code, §§ 11123, and 17526, subd. (a).
 - 18 Gov. Code, §§ 11123, and 17526, subd. (a).
 - 19 Cal. Code Regs., tit. 2, § 1182.4.
 - 20 Cal. Code Regs., tit. 2, § 1187.3, subd. (a).
 - 21 Cal. Code Regs., tit. 2, § 1187.6, subd. (d).
 - 22 Cal. Code Regs., tit. 2, § 1185.03.
 - 23 Cal. Code Regs., tit. 2, § 1185.1.



PUBLIC PARTICIPATION

THERE ARE MANY AVENUES THROUGH WHICH MEMBERS OF THE PUBLIC may participate in the mandate reimbursement process. As interested parties and interested persons (refer to Glossary for definitions), any individual or organization may become involved in various aspects of the test claim process or retrieve information generated along the way. Interested parties and persons may participate in several elements of the Commission process, including:

- Test claim process (notice and receipt of documents, review and comment, conferences, and hearings).
- Inspection or request of public records.
- Rulemaking (initiation and participation).

Contact the Commission for more information on opportunities for participation.

Public Access to Records and Meetings

State laws ensure public access to information concerning the conduct of the people's business as a fundamental and necessary right. The California Public Records Act¹ and the Bagley-Keene Open Meeting Act² provide public access, including access for the disabled, to public records and meetings, respectively, and require notification of meetings. As a state agency, the Commission is subject to these laws.

Receiving Notice, Agenda, and Filings

Any person or organization may request that the Commission inform them of meetings or send specific information on various items.

Notice and Agenda Mailing List

Commission staff maintains a notice and agenda mailing list. Any person or organization may ask to be added to the mailing list. Each person on the list receives the notice and agenda for Commission meetings at least 10 days before the meeting.³ In addition, the Commission provides notice of meetings to any person who requests notice at least 10 days before the meeting.⁴ The notice and agenda are also posted on the Commission's web site (www.csm.ca.gov).

There are many avenues through which the public may participate in the mandate reimbursement process, including:

- *Test Claim Process (notice and receipt of documents, review and comment, participation in conferences and hearings).*

- *Inspection or request of public records.*

- *Rulemaking (initiation and participation).*

PUBLIC PARTICIPATION

Mailing Lists for Specific Claims

Staff creates a mailing list for each complete test claim filed with the Commission. Each list contains the names, addresses, phone numbers, and facsimile numbers of the parties, state agencies and interested parties who have requested to be on the mailing list for a specific claim. Commission staff provides the mailing list to the parties and interested parties to the test claim and to any person who requests a copy. However, only one representative from each interested party may be included on each mailing list.⁵

The mailing list for each test claim accompanies the claim through the mandate process. The same list that is developed when the test claim is filed is used for the parameters and guidelines and statewide cost estimates. Staff sends copies of documents to interested parties and persons on the mailing lists.

Any mailing list may be modified to accommodate the addition or deletion of parties and interested parties. Any person or organization may request inclusion on or deletion from a mailing list at any time. In addition, Commission staff purges mailing lists annually. To initiate the purge, staff sends out letters asking all interested parties to indicate which mailing lists they would like to remain on, if any. Upon receipt of responses, staff updates the lists for use the following year.

Submitting Written Comments

Interested parties and persons may review and provide written comment on original filings by test claimants. The Commission also invites those on the mailing list to submit comments on the analyses issued by Commission staff.⁶

Commenting on an Original Filing

Those who have requested placement on one or more of the Commission's mailing lists for a particular claim will be sent copies of other filings related to the claim. If additional processes are requested or initiated regarding specific claims, those on the mailing lists may also receive copies of requests to amend parameters and guidelines and requests to review the State Controller's claiming instructions. When sending any of these filings, Commission staff notifies the receiving interested party or person that comments may be made on the filing within pre-determined timelines.

For a test claim, request to amend parameters and guidelines or request to review claiming instructions, the receiving party or person has 30 days from receipt to file written comments or recommendations.⁷ Comments or recommendations on parameters and guidelines must be submitted to the Commission within 15 days of service.⁸ A review of written responses, opposition, recommendations, and comments filed by interested parties and persons is included in the final staff analysis, which assists the Commission in deciding on issues brought before it.

Commenting on a Draft Staff Analysis

Interested parties and interested persons may submit written comments on draft analyses issued by Commission staff for various types of filings. Written comments on the draft staff analysis of a test claim or incorrect reduction claim must be submitted at least five weeks, or by the due date specified, before the hearing on the item.⁹ Staff includes all timely-filed comments with the final staff analysis presented to the Commission.¹⁰

Attending pre-hearing Conferences on a Claim

The Commission offers two additional opportunities for participation following the submission of written comments and before the hearing on any component of the test claim process: pre-hearing and informal conferences. Neither type of conference is a required component of the test claim process. As a result, they occur only under specific circumstances.

An informal conference may be convened to discuss scheduling, completion of the staff analysis, and the hearing on the test claim. Interested parties and persons on the mailing list are notified of the subject, date, time, and location at least 10 days before the conference.¹¹ Those who attend may simply observe or participate in the discussion.

Interested parties and persons on a claim's mailing list are invited to attend a pre-hearing conference, if one is scheduled. Issues regarding a claim and methods for resolving them may be discussed.¹² As with informal conferences, those who attend may observe or actively participate.

At an informal or pre-hearing conference regarding parameters and guidelines, staff may present a draft of its recommendation on parameters and guidelines.¹³

Participating in Commission Hearings

Commission meetings are governed by Government Code section 17500 et seq., Commission rules and regulations, and the Bagley-Keene Open Meeting Act. As such, all Commission meetings are open to the public. However, the Commission may meet in closed executive session to consider pending litigation, the appointment or dismissal of officers or employees, or to hear complaints or charges brought against a member, officer or employee of the Commission. In addition, the Commission may hold special meetings under specific circumstances outlined in the Bagley-Keene Open Meeting Act. Any party appearing on items under article 7 of the Commission regulations must be sworn in under oath prior to testifying.

Open Meetings

At its meetings, the Commission acts and deliberates openly.¹⁴ Any person may attend, except when the Commission meets in a closed executive session.¹⁵

PUBLIC PARTICIPATION

The Commission provides notice of meetings to any person who requests notice in writing. The notice of meeting, including the meeting agenda, is provided at least 10 days before the meeting.¹⁶ The agenda for the meeting provides a general description of the items to be transacted or discussed.¹⁷ Any notice and agenda, and other writings pertaining to the meeting, are available for public review in hard copy at the Commission office and on the Commission's web site (www.csm.ca.gov).¹⁸

At its meetings, the Commission acts and deliberates in open session on test claims and other business before the Commission. Any person may attend, except when the Commission meets in a closed executive session.

At Commission meetings, interested parties and individuals also have the opportunity to directly address the Commission on each agenda item before or during the members' discussion or consideration of the item. However, the chairperson may limit the amount of time allotted for each speaker.¹⁹

Throughout the process, the public may also participate by requesting information from the Commission.

Reviewing and Requesting Public Records

"Public records" include any writings containing information relating to the conduct of the public's business prepared, owned, used, or retained by any state or local agency regardless of physical form or characteristics.²⁰ The Commission will promptly allow inspection and/or provide copies of its public records, except those that are exempt by express provisions of law, to individuals who request them following the payment of the fees covering the direct cost of duplication, if applicable.²¹

Every person has a right to inspect Commission records during normal office hours. Documents open to inspection include meeting agendas, minutes and transcripts, and the files of ongoing claims – following reasonable segregation or deletion of the portions exempted by law.²²

Commission staff will assist members of the public in identifying public records and information that are responsive to a request or a stated purpose; to describe the information technology and physical location in which the records exist; and to provide suggestions for overcoming any practical basis for denying access to the records or information sought.²³ Exceptions include cases where the Commission staff makes available the requested records in person or via index or determines that a request should be denied based on an exemption listed in Government Code section 6254.²⁴

Unless otherwise prohibited by law, if the Commission has non-exempt information in an electronic format, it will make it available upon request in any electronic format in which it holds the information, or in a requested format if that format has been used by the Commission to create copies for its own use or for other agencies.²⁵ For detailed information on access to public records, refer to the California Public Records Act, Government Code section 6250 et seq.

Record Requests

Commission staff provides one copy per request of each of the following items at no charge to any requester:

- Meeting agendas.
- Periodic summary reports on open claims.
- Projected scheduling for hearings.

A fee may be charged for more than one copy. Some items, such as the meeting notice and agenda and the schedule of hearings, may be viewed, printed and downloaded from the Commission's web site (www.csm.ca.gov).

The Commission also provides without charge one copy of the administrative record of a test claim to the claimant and co-claimants or their designated representative, state agencies, and, if requested, statewide associations of local entities or their representatives.

Charging and Collecting Fees for Record Requests

The Commission charges and collects fees for the actual costs of preparing certain record requests. Fees may be charged for requests for copies of records that must be retrieved out of file and requests by interested parties or individuals who are not designated to receive complimentary copies.

If applied, charges for record requests, including, but not limited to, copying, tax and postage when applicable, will be noted in an invoice. Upon payment, records can be mailed to or picked up by the requester, according to the requester's preference.

Participating in Commission Rulemaking

The Commission may adopt, promulgate, amend, and rescind its rules and regulations in a process that conforms to the notice and public comment provisions of the Administrative Procedures Act.²⁶ Throughout this process, there are several opportunities for public participation. The public may request the initiation of a rulemaking proceeding to amend Commission regulations. The public is also provided with at least a 45-day period to comment on regulations proposed by the Commission. The public may also testify when the Commission is adopting or rejecting proposed regulations.

Initiating a Rulemaking Proceeding

Any person may file a petition requesting a rulemaking hearing. The Commission considers a completed petition within 60 days of filing. If the Commission denies a petition, it issues a written statement of decision explaining the reasons for denial to the petitioner and all

The Commission may adopt, promulgate, amend and rescind its rules and regulations in a process that conforms to the notice and public comment provisions of the Administrative Procedures Act.

PUBLIC PARTICIPATION

interested parties and persons. Conversely, if the Commission approves a petition, staff prepares an order to institute a rulemaking proceeding.²⁷ The Commission, on its own motion, can also adopt an order to initiate a rulemaking proceeding.²⁸

Commenting on Proposed Regulatory Action

Once a proceeding is initiated, staff mails the notice, proposed text, initial statement of reasons, and proposed rulemaking calendar to every person who requests notice of Commission regulatory actions and whose name is on the mailing list for regulatory actions.²⁹ The regulatory package is also posted to the Commission's web site (www.csm.ca.gov).³⁰

Staff also submits the notice to the Office of Administrative Law. The Office of Administrative Law then publishes the notice in the California Regulatory Notice Register.³¹

Submitting Comments

Any interested person may comment on the Commission's proposed rulemaking action by submitting written comments. In addition, any interested person or state agency may request that the Commission hold a public hearing solely for the submission of oral comments, which are transcribed by a certified shorthand reporter. The public comment period remains open for a minimum of 45 days after the notice of proposed rulemaking is published and mailed.³²

Commission staff responds to all comments received during the public comment period. These responses are included in the final statement of reasons filed with the final rulemaking record that is submitted to the Office of Administrative Law for publication.³³

Throughout the rulemaking process, any person may review the rulemaking file maintained by Commission staff.³⁴

Adopting Proposed Regulations

After the close of the public comment period, staff presents to the Commission for review and adoption the proposed text, public comments, staff analysis, and responses to public comments. If, after review of the public comments, staff substantially modifies the proposed rulemaking text, the modified text is made available to the public for at least 15 days before the Commission can adopt the resulting regulation.³⁵ Staff responds to and includes in the final statement of reasons any comments received during the 15-day additional public comment period.³⁶

The final rulemaking file contains all versions of proposed text, public comments, the Economic and Fiscal Impact Statement, and the final statement of reasons. A summary of public comments is included in the final statement of reasons, which updates the information in the initial statement of reasons.³⁷

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- 1 Gov. Code, § 6250 et seq.
 - 2 Gov. Code, § 11120 et seq.
 - 3 Cal. Code Regs., tit. 2, § 1182.1.
 - 4 Gov. Code, § 11125, subd. (a).
 - 5 Cal. Code Regs., tit. 2, § 1181.2.
 - 6 Cal. Code Regs., tit. 2, § 1181.2, subds. (b) through (d).
 - 7 Cal. Code Regs., tit. 2, §§ 1183.02, subd. (b), 1183.2, subd. (f), and 1186.2, subd. (e), respectively.
 - 8 Cal. Code Regs., tit. 2, § 1183.11, subd. (b).
 - 9 Cal. Code Regs., tit. 2, § 1183.07, subd. (c).
 - 10 Cal. Code Regs., tit. 2, § 1183.07 for test claims, § 1183.12 for parameters and guidelines; Cal. Code Regs., tit. 2, § 1182.2, subd. (b), generally.
 - 11 Cal. Code Regs., tit. 2, § 1183.04.
 - 12 Cal. Code Regs., tit. 2, § 1187.4.
 - 13 Cal. Code Regs., tit. 2, § 1183.12, subd. (b).
 - 14 Gov. Code, § 11120.
 - 15 Gov. Code, § 11123 and 11126.
 - 16 Gov. Code, § 11125, subd. (a).
 - 17 Gov. Code, § 11125, subd. (b).
 - 18 Gov. Code, § 11125.1, subd. (a).
 - 19 Cal. Code Regs., tit. 2, §§ 1188, 1189.5, and 1182.2, subd. (b).
 - 20 Gov. Code, § 6252, subd. (e).
 - 21 Gov. Code, § 6253, subd. (b).
 - 22 Gov. Code, § 6253, subd. (a).
 - 23 Gov. Code, § 6253.1, subd. (a).
 - 24 Gov. Code, § 6253.1, subd. (d).
 - 25 Gov. Code, § 6253.9.
 - 26 Gov. Code, § 17527, subd. (g).
 - 27 Cal. Code Regs., tit. 2, § 1189.1, subd. (a).
 - 28 Cal. Code Regs., tit. 2, § 1189.2.
 - 29 Gov. Code, § 11346.4.
 - 30 Gov. Code, § 11346.4, subd. (a)(6).
 - 31 Gov. Code, § 11346.4, subd. (a)(5).
 - 32 Gov. Code, § 11346.4 and 11346.8.
 - 33 Gov. Code, § 11346.9.
 - 34 Gov. Code, § 11347.3, subd. (d).
 - 35 Gov. Code, § 11346.8, subd. (c).
 - 36 Gov. Code, § 11346.8, subd. (c).
 - 37 Gov. Code, § 11346.9, subd. (a).



REQUESTING EXTENSIONS AND POSTPONEMENTS

EXTENSIONS OF TIME TO FILE RESPONSES, opposition, recommendations, rebuttals or comments may be requested by any party or interested party prior to the Commission's established due date for filing these documents. Requests for extension must be based on good cause, as defined below.

Requesting Extensions

Any party or interested party may request an extension of time. Requests must be filed with the Commission and simultaneously served on the other parties and interested parties on the mailing list provided by the Commission. The request must contain the following:

- A full explanation of the reason(s) for the extension.
- A proposed new date for filing.
- A proof of service that the request was simultaneously served on all parties and interested parties to the test claim.

Responding to Extension Requests

The executive director of the Commission must make a determination within 48 hours of receipt of the request. The executive director may approve such requests for good cause.¹ A request filed by stipulation of the parties, including the claimant, will be approved for good cause.

Pursuant to Commission regulations, "good cause" may include:

- The number and complexity of the issues raised.
- Whether a party is new to the case, or the necessity for other counsel.
- Whether the individual responsible for preparing the document has other time- limited commitments during the affected period.
- Whether the individual responsible for appearing at the hearing has other time-limited commitments.
- Illness of a party.
- A personal emergency.

Extensions of time to file responses, opposition, recommendations, rebuttals or comments may be requested by any party or interested party prior to the Commission's established due date for filing these documents. Requests for extension of time must be based on good cause.

REQUESTING EXTENSIONS AND POSTPONEMENTS

If a request for extension of time causes hearing of an item to be delayed, the request must also include a request for postponement of the hearing.

- A planned vacation that cannot reasonably be rearranged and/or that was not expected to conflict with the due date.²
- Any other factor that, in the context of a particular claim, constitutes good cause.

Any request for an extension of time to file comments that would necessitate rescheduling a hearing should also include a request to postpone the hearing.³

Postponing a Hearing

Any party may request that a hearing be postponed until the next regularly scheduled hearing date, or another date. In doing so, parties follow a format similar to that for “Requesting Extensions.” Requesters must fully explain the reason(s) for postponement and simultaneously serve the request, along with proof of service, on all parties and interested parties to the claim. The executive director must make a determination and notify all parties within 48 hours of receipt of the request.

Responding to Requests to Postpone a Hearing

The executive director may approve requests filed by either state agencies or the claimant less than 15 days before the hearing. The executive director shall approve the request filed by a stipulation of parties or filed by the claimant more than 15 days before the hearing for good cause. In addition, the executive director may postpone a hearing at any step in the test claim process for good cause.⁴

1 Cal. Code Regs., tit. 2, § 1183.01, subd. (c)(1).

2 Cal. Code Regs., tit. 2, § 1181.1, subd. (h).

3 Cal. Code Regs., tit. 2, § 1183.01, subd. (c)(1).

4 Cal. Code Regs., tit. 2, § 1183.01, subd. (c)(3).



GLOSSARY

Definitions

The definition of a word applies to any of its variants, and the singular tense of a word includes the plural.¹

Affected State Agency A state department or agency that is responsible, in whole or in part, for implementation, enforcement or administration of any statute(s) or executive order(s) that is the subject of a test claim.²

Amendment (1) A document that replaces and supersedes or adds new material to the contents of an existing claim; or
(2) The addition or substitution of parties to an existing claim.³

Annual Reimbursement Claim A claim for actual costs incurred in a prior fiscal year filed with the Controller by a local agency or school district for which appropriations are made to the Controller for this purpose.⁴

Base Period The three fiscal years immediately succeeding Commission approval (of a program's entry into the State Mandates Apportionment System).⁵

Base Year Entitlement That amount determined to be the average for the approved reimbursement claims of each local agency or school district for the three preceding fiscal years adjusted by the change in the deflator. A base year entitlement shall not include any nonrecurring or initial startup costs incurred by a local agency or school district in any of those three fiscal years. For those mandates that become operative on January 1 of any year, the amount of the "approved reimbursement claim" for the first three years may be computed by

annualizing the amount claimed for the six-month period of January through June in that first year, excluding nonrecurring or startup costs.⁶

City Any city, whether general law or charter, except a city and county.⁷

Claim Test claim or incorrect reduction claim.⁸

Commission The Commission on State Mandates.⁹

Commission Staff The executive director, legal counsel, or other commission employee who has been authorized by the executive director to represent the Commission on a specific claim.¹⁰

Completed All requirements for filing a claim, proposed parameters and guidelines, request to amend parameters and guidelines, request for reconsideration, or request to review claiming instructions have been satisfied by the claimant.¹¹

Costs Arising From a Statute The total amount of funds necessary to reimburse eligible local government agencies and school districts for costs incurred as a result of complying with a mandate for the fiscal year specified in the parameters and guidelines in accordance with Government Code section 17557.¹²

Costs Mandated by the Federal Government

Any increased costs incurred by a local agency or school district after January 1, 1973, in order to comply with the requirements of a federal statute or regulation. Includes costs resulting from enactment of a state law or regulation where failure to enact that law or regulation to

GLOSSARY

meet specific federal program or service requirements would result in substantial monetary penalties or loss of funds to public or private persons in the state. Does not include costs that are specifically reimbursed or funded by the federal or state government or programs or services that may be implemented at the option of the state, local agency or school district.¹³

Costs Mandated by the State Any increased costs which a local agency or school district is required to incur after July 1, 1980, as a result of any statute enacted on or after January 1, 1975, or any executive order implementing any statute enacted on or after January 1, 1975, which mandates a new program or higher level of service of an existing program within the meaning of section 6 of article XIII B of the California Constitution.¹⁴

County Any chartered or general law county. Includes a city and county.¹⁵

Deflator The Implicit Price Deflator for the Costs of Goods and Services to Governmental Agencies, as determined by the Department of Finance.¹⁶

Entitlement Claim A claim filed by a local agency or school district with the Controller for the purpose of establishing or adjusting a base year entitlement. All entitlement claims are subject to Government Code section 17616.¹⁷

Estimated Reimbursement Claim A claim filed with the State Controller by a local agency or school district in conjunction with an initial reimbursement claim, annual reimbursement claim, or at other times, for estimated costs to be reimbursed during the current or future fiscal years, for which appropriations are made to the Controller for this purpose.¹⁸

Estimated Statewide Cost The total amount of funds estimated to be necessary to reimburse all eligible local government agencies and school districts for costs incurred as a result of the mandate during the first 12-month period following the operative date of the mandate.¹⁹

Executive Order Any order, plan, requirement, rule, or regulation issued by any of the following:

- The Governor.
- Any officer or official serving at the pleasure of the Governor.
- Any agency, department, board, or commission of state government.

Does not include any order, plan, requirement, rule, or regulation issued by the State Water Resources Control Board or by any regional water quality control board pursuant to Division 7 (commencing with section 13000) of the Water Code. It is the intent of the Legislature that the State Water Resources Control Board and regional water quality control boards will not adopt enforcement orders against publicly owned dischargers which mandate major waste water treatment facility construction costs unless federal financial assistance and state financial assistance pursuant to the Clean Water Bond Act of 1970 and 1974, is simultaneously made available. "Major" means either a new treatment facility or an addition to an existing facility, the cost of which is in excess of 20 percent of the cost of replacing the facility.²⁰

Filing Date The date of delivery to the commission office during normal business hours. The filing is timely if it was mailed by certified express mail or a common carrier promising overnight delivery, and the time for its filing had not expired on the date of its mailing, as shown by the postmark, or the date of delivery to the overnight carrier.²¹

Fund The State Mandates Claims Fund.²²

Good Cause May include, but is not limited to, the following factors:

- (1) The number and complexity of the issues raised.
- (2) Whether a party is new to the case, or the necessity for other counsel.
- (3) Whether the individual responsible for preparing the document has other time-limited commitments during the affected period.

- (4) Whether the individual responsible for appearing at the hearing has other time limited commitments.
- (5) Illness of a party.
- (6) A personal emergency.
- (7) A planned vacation which cannot reasonably be rearranged and/or which was not reasonably expected to conflict with the due date
- (8) A pending public records request.
- (9) Any other factor which in the context of a particular claim constitutes good cause.

Good cause may be established by a specific showing of other obligations involving deadlines that as a practical matter preclude filing the document by the due date without impairing quality.²³

Incorrect Reduction Claim A claim alleging that the State Controller has incorrectly reduced the amount paid on a reimbursement claim of a local agency or school district.²⁴

Informational Proceeding Any hearing designed to gather and assess information to assist the Commission in formulating policies; informing the public of Commission actions; or obtaining public comment and opinion.²⁵

Initial Reimbursement Claim A claim filed with the State Controller by a local agency or school district for costs to be reimbursed for the fiscal years specified in the first statute that appropriates funds for reimbursement of the mandate.²⁶

Interested Party A local agency or school district; an organization or association representing local government agencies or school districts; or a person authorized to represent a local agency or school district having an interest in a specific claim.²⁷

Interested Person Any individual, local agency, school district, state agency, corporation, partnership, association, or other type of entity, having an interest in the activities of the Commission on State Mandates.²⁸

Local Agency Any city, county, special district, authority, or other political subdivision of the state.²⁹

Party The test claimant, Department of Finance, State Controller, or affected state agency.³⁰

Rulemaking Proceeding Any hearing designed for the adoption, amendment, or repeal of any rule, regulation or standard of general application that implements, interprets or makes specific any provision of section 17500 and following of the Government Code or any other statute enforced or administered by the Commission.³¹

School District Any school district, community college district or county superintendent of schools.³²

Special District Any agency of the state that which performs governmental or proprietary functions within limited boundaries. Includes a redevelopment agency, joint powers agency or entity, county service area, maintenance district or area, improvement district or improvement zone, or any other zone or area.³³

Teleconference A conference of individuals in different locations, connected by electronic means through either audio or video or both.³⁴

Test Claim Test claim means the first claim, including claims joined or consolidated with the first claim, filed with the Commission alleging that a particular statute or executive order imposes costs mandated by the state.³⁵

Written Material Includes, but is not limited to, requests and correspondence on substantive and procedural matters, (e.g., informal conferences, prehearing conferences, postponements of hearings, extensions of due dates for submission of opposition, recommendations, comments, stipulations, applications for subpoenas and subpoenas duces tecum, witness lists, etc.). Test claims, resubmitted test claims, incorrect reduction claims, or amendments thereto are not considered written material.³⁶

GLOSSARY

- ¹ Gov. Code, § 17510.
- ² Cal. Code Regs., tit. 2, § 1181.1, subd. (a).
- ³ Cal. Code Regs., tit. 2, § 1181.1, subd. (b).
- ⁴ Gov. Code, § 17522, subd. (b).
- ⁵ Gov. Code, § 17615.2, subd. (a).
- ⁶ Gov. Code, § 17524.
- ⁷ Gov. Code, § 17511.
- ⁸ Cal. Code Regs., tit. 2, § 1181.1, subd. (c).
- ⁹ Gov. Code, § 17512.
- ¹⁰ Cal. Code Regs., tit. 2, § 1181.1, subd. (e).
- ¹¹ Cal. Code Regs., tit. 2, § 1181.1, subd. (f).
- ¹² Gov. Code, § 17610, subd. (c).
- ¹³ Gov. Code, § 17513.
- ¹⁴ Gov. Code, § 17514.
- ¹⁵ Gov. Code, § 17515.
- ¹⁶ Gov. Code, § 17523.
- ¹⁷ Gov. Code, § 17522, subd. (d).
- ¹⁸ Gov. Code, § 17522, subd. (c).
- ¹⁹ Gov. Code, § 17610, subd. (b).
- ²⁰ Gov. Code, § 17516.
- ²¹ Cal. Code Regs., tit. 2, § 1181.1, subd. (g).
- ²² Gov. Code, § 17517.
- ²³ Cal. Code Regs., tit. 2, § 1181.1, subd. (h).
- ²⁴ Cal. Code Regs., tit. 2, § 1181.1, subd. (i).
- ²⁵ Cal. Code Regs., tit. 2, § 1181.1, subd. (j).
- ²⁶ Gov. Code, § 17522, subd. (a).
- ²⁷ Cal. Code Regs., tit. 2, § 1181.1, subd. (k).
- ²⁸ Cal. Code Regs., tit. 2, § 1181.1, subd. (l).
- ²⁹ Gov. Code, § 17518.
- ³⁰ Cal. Code Regs., tit. 2, § 1181.1, subd. (m).
- ³¹ Cal. Code Regs., tit. 2, § 1181.1, subd. (n).
- ³² Gov. Code, § 17519.
- ³³ Gov. Code, § 17520.
- ³⁴ Cal. Code Regs., tit. 2, § 1181.1, subd. (o).
- ³⁵ Gov. Code, § 17521.
- ³⁶ Cal. Code Regs., tit. 2, § 1181.1, subd. (q).